

ARKANSAS CODE OF 1987 ANNOTATED

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ARKANSAS CODE OF 1987 ANNOTATED



VOLUME 4A 2007 Replacement TITLE 6: EDUCATION (CHAPTERS 1-17)

Prepared by the Editorial Staff of the Publisher

Under the Direction and Supervision of the
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Sources

This volume contains legislation enacted by the Arkansas General Assembly through the 2007 Regular Session. Annotations are to the following sources:

Arkansas Supreme Court and Arkansas Court of Appeals Opinions through 2007 Ark. LEXIS 287 (June 28, 2007) and 2007 Ark. App. LEXIS 324 (June 27, 2007).

Federal Supplement through August 13, 2007.

Federal Reporter 3d Series through August 13, 2007.

United States Supreme Court Reports, through August 13, 2007.

Bankruptcy Reporter through August 13, 2007.

Arkansas Law Notes through the 2006 Edition.

Arkansas Law Review through Volume 59, p. 511.

University of Arkansas at Little Rock Law Review through Volume 28, p. 399.

ALR 6th through Volume 17, p. 757.

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User's Guide

Differences in language, subsection order, punctuation, and other variations in the statute text from legislative acts, supplement pamphlets, and previous versions of the bound volume, are editorial changes made at the direction of the Arkansas Code Revision Commission pursuant to the authority granted in § 1-2-303.

Many of the Arkansas Code's research aids, as well as its organization and other features, are described in the User's Guide, which appears near the beginning of the bound Volume 1 of the Code.

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CHAPTER 1

GENERAL PROVISIONS

SUBCHAPTER.

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SUBCHAPTER 1 — GENERAL PROVISIONS

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SECTION.

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6-1-101. Review of audit report by board.

(a) The audit of every publicly funded educational institution shall be performed by the Division of Legislative Audit or other independent person licensed to practice accounting by the Arkansas State Board of Public Accountancy to be selected by the governing body of the educational institution.

(b) Any statutorily required audit of an educational institution performed by an independent accountant shall include, as a minimum and as an integral part of the annual financial report, a review and comments on substantial compliance with each of the following:

(1) Management letter for audit of political subdivisions, §§ 14-75-101 — 14-75-104;

(2) School officials prohibited from having interest in sales to school and from receiving pecuniary profits for favorable actions, §§ 6-13-628, 6-21-601, and 6-21-603;

(3) School elections, §§ 6-14-102 and 6-14-118;

(4) Management of schools, §§ 6-13-617 — 6-13-620, and 6-13-701;

(5) Revolving loan fund, §§ 6-19-114, 6-20-801, and 6-20-802;

(6) School district finances, §§ 6-20-402 and 6-20-409;

(7) School district school bonds, §§ 6-20-1208 and 6-20-1210;

(8) Teachers and employees, §§ 6-17-201, 6-17-203 — 6-17-206, 6-17-301, and 6-17-401;

(9) Teachers' salaries, the Minimum Foundation Program Aid Act, §§ 6-17-803, 6-17-907, 6-17-908, 6-17-911 — 6-17-915, 6-17-918, and 6-17-919;

(10) Surety bonds if school district has school district treasurer, § 19-1-403;

(11) Deposit of funds, §§ 19-8-104 and 19-8-106;

(12) Investment of funds, § 19-1-504; and

(13) Improvement contracts, § 22-9-201 — 22-9-205.

(c) The governing body of the educational institution shall require the independent accountant to present the annual financial report in conformity with the format and guidelines as prescribed by the appropriate professional organizations such as, but not limited to, the

American Institute of Certified Public Accountants, the National Council on Governmental Accounting, and the National Association of College and University Business Officers.

(d)(1) The audit reports and accompanying comments and recommendations relating to any publicly funded school, education service cooperative, vocational-technical school, or institution of higher education prepared in accordance with the provisions of this section or other code provisions shall be reviewed by the applicable board or governing body.

(2) The audit report and accompanying comments and recommendations shall be reviewed at the first regularly scheduled meeting following receipt of the audit report if the audit report is received by the board or governing body prior to ten (10) days before the regularly scheduled meeting. If the audit report is received by the board or governing body within ten (10) days before a regularly scheduled meeting, the audit report may be reviewed at the next regularly scheduled meeting after the ten-day period.

(3) The board or governing body shall take appropriate action relating to each finding and recommendation contained in the audit report. The minutes of the board or governing body shall document the review of the findings and recommendations and the action taken by the board or governing body.

(e) In addition to any other requirements in this section, the Legislative Joint Auditing Committee may establish additional compliance or financial reporting requirements for audits of publicly funded educational institutions performed by the division or by an independent person licensed to practice accounting by the board.

(f) Education service cooperatives shall be subject to the same financial management practices, reviews, and designations as provided for school districts under § 6-15-2101.

History. Acts 1985, No. 29, §§ 1, 2; 1985, No. 66, §§ 1, 2; A.S.A. 1947, §§ 13-1528, 13-1529; Acts 1991, No. 4, § 1; 2003 (2nd Ex. Sess.), No. 61, § 2; 2007, No. 617, § 1.

Amendments. The 2007 amendment substituted "education service cooperative" for "educational cooperative" in (d)(1).

6-1-102. State boards to meet.

The State Board of Education, the Arkansas Higher Education Coordinating Board, and the State Board of Workforce Education and Career Opportunities shall meet at least once annually or more often as necessary in a joint meeting to address matters which will assist the furtherance of excellence of education in this state and increase coordination among the three (3) boards.

History. Acts 1989, No. 14, § 1; 1999, No. 478, § 1.

6-1-103. [Repealed.]

Publisher's Notes. Former § 6-1-103, concerning reporting requirements under Acts 1997, No. 342, was repealed by Acts

1999, No. 508, § 1. The section was derived from Acts 1997, No. 342, § 29.

6-1-104. [Repealed.]

Publisher's Notes. Former § 6-1-104, concerning reporting requirements under Acts 1997, No. 1211, was repealed by Acts

1999, No. 508, § 2. The section was derived from Acts 1997, No. 1211, § 13.

6-1-105. Information sharing with the Assessment Coordination Department.

(a)(1) The State Board of Education, the Department of Education, and any other department or division administered by the state board shall provide information maintained by the state board, the Department of Education, or any other department or division to the Assessment Coordination Department upon request by the Assessment Coordination Department.

(2) The information shall enable the Assessment Coordination Department to:

(A) Verify, ascertain, or calculate assessed values of real and personal property, millage rates, or tax collection rates in school districts and counties; and

(B) Assist the General Assembly, the Attorney General, or another state agency in verifying, ascertaining, or calculating data related to public schools, including school funding, school district revenues, and public school facilities.

(b) Information provided under this section shall be in any medium in which the record is readily available or in any format to which it is readily convertible with the existing software used by the state board, the Department of Education, or any other department or division.

(c) Actual costs or expenses incurred in compiling or transmitting the data to the Assessment Coordination Department shall be paid by the Department of Education.

History. Acts 2005, No. 1933, § 1.

SUBCHAPTER 2 — ARKANSAS LEADERSHIP INSTITUTE FOR TEACHERS OF THE DELTA**SECTION.**

6-1-201. Identification of the Arkansas Delta region.

SECTION.

6-1-202. Short title — Legislative findings.

Publisher's Notes. Former subchapter 2, concerning school health services, was repealed by Acts 1989, No. 536, § 5. The subchapter was derived from the following sources:

§ 6-1-201. Acts 1979, No. 999, § 1; A.S.A. 1947, § 80-5301.

§ 6-1-202. Acts 1979, No. 999, § 2; A.S.A. 1947, § 80-5302.

§ 6-1-203. Acts 1979, No. 999, § 3; A.S.A. 1947, § 80-5303.

§ 6-1-204. Acts 1979, No. 999, § 4; A.S.A. 1947, § 80-5304.

§ 6-1-205. Acts 1985, No. 211, §§ 1-3; 1985, No. 914, §§ 1-3; A.S.A. 1947, §§ 80-5305 — 80-5307.

6-1-201. Identification of the Arkansas Delta region.

(a) The Department of Education, working with the Department of Higher Education, shall establish a procedure each school year to identify:

(1) The geographical areas of the state that are experiencing a critical shortage of teachers; and

(2) The subject matters of teaching fields that are experiencing a critical shortage of teachers in the state.

(b) The Department of Education, working with the Department of Higher Education, shall establish a procedure to identify the region of the state that is the Arkansas Delta for purposes of:

(1) Receiving educational appropriations;

(2) State funded scholarship and student loan programs; and

(3) Other educational purposes.

History. Acts 2001, No. 1521, § 1.

6-1-202. Short title — Legislative findings.

(a) This section shall be known as the "Arkansas Delta Leadership Act of 2001".

(b)(1) The General Assembly finds:

(A) Teachers in the Delta are not provided adequate professional growth opportunities within the Delta region as may be necessary to improve their teaching and learning;

(B) An alignment of service providers is needed to ensure that gains made are monitored and maintained in the classroom;

(C) Delta teachers often do not participate in professional development opportunities designed to support underrepresented and underserved teachers of the Delta because of the travel requirements necessary for participation; and

(D) A program is needed to provide services for teachers in the Delta to connect them to their own geographical region, to provide a strong network of individuals that can communicate regional needs for students, and to focus on student achievement.

(2) The General Assembly further finds that such a program is expected to:

(A) Close the achievement gaps between Delta schools and the state average on student achievement;

(B) Create a network of teachers to communicate and network on issues related to academic standards;

(C) Provide knowledge and skill-building opportunities for career and new teachers that are directly related to areas of need as indicated by data;

(D) Provide professional development planning for the wise use and convergence of funding federally funded programs, state funds or programs, and local funds or programs; and

(E) Provide grant-writing expertise to school districts to help them access funding needed to improve the quality of their academic programs.

(c)(1) The Arkansas Leadership Institute for Teachers of the Delta is created and shall be known as "A-Lift".

(2)(A) A-Lift shall provide for professional development planning, training, and implementation of effective teaching strategies in Delta school districts.

(B) A-Lift shall also provide mentoring to teachers seeking National Board for Professional Teaching Standards certification.

(C) A-Lift shall target Delta school districts in Arkansas that are part of the counties identified as Delta counties by the Delta Regional Authority.

(3)(A) A-Lift shall be located in Helena-West Helena, Pine Bluff, or Monticello at an existing site with space available to house the institute.

(B) An existing site may be a two-year institution, a four-year institution, an education service cooperative, or other institution.

(C) Preference for location shall be given to four-year institutions or education service cooperatives in Helena-West Helena, Pine Bluff, or Monticello that have experience in professional development support mentoring, teacher licensure, and teacher quality.

(D) The State Board of Education shall have authority to issue the requests for proposals site selection, and the selection shall be based upon a response to a request for proposal issued through the state board.

(d) The state board may promulgate rules and regulations as necessary for the implementation of this section.

History. Acts 2001, No. 1523, §§ 1-3.

SUBCHAPTER 3 — ARKANSAS COMMISSION FOR COORDINATION OF EDUCATIONAL EFFORTS

SECTION.

6-1-301. Arkansas Commission for Coordination of Educational Efforts.

SECTION.

6-1-302. Organization and operation.
6-1-303. Duties.
6-1-304. Reporting requirements.

Effective Dates. Acts 2003 (2nd Ex. Sess.), No. 109, § 3: Mar. 4, 2004. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the Arkansas Supreme Court in Lake View School District No. 25 v. Huckabee, 351 Ark. 31 (2002) declared the now existing system of education to be unconstitutional because it is both inequitable and inadequate; that educational reforms applied to public schools has an effect on other segments of the state's educational system; that the cooperation of all segments of the educational system is necessary to ensure the success of educational reforms; that to foster cooperation this act creates the Arkansas Commission for Coordination of Educational Efforts; and that this act is immediately necessary to assist in the enhancement of the state's educational system. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2005, No. 1936, § 4: Apr. 11, 2005. Emergency clause provided: "It is found and determined by the General Assembly

of the State of Arkansas that there needs to be better coordination among educational entities in the state; that it is imperative to include science, mathematics, and technology interests in the coordination efforts; and that this act is immediately necessary because the Arkansas Commission for Coordination of Educational Efforts is in the process of developing recommendations for improvements in education in the state. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2007, No. 751, § 38: July 1, 2007. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act dissolves and transfers the duties of the Executive Chief Information Officer, Chief Information Officer, and Office of Information Technology; and that dissolving the offices at the beginning of the state's fiscal year will result in a more efficient transfer of responsibilities and funds. Therefore, an emergency is declared to exist, and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2007."

6-1-301. Arkansas Commission for Coordination of Educational Efforts.

(a) There is created the "Arkansas Commission for Coordination of Educational Efforts".

(b) The Arkansas Commission for Coordination of Educational Efforts is composed of the following members:

- (1) The Director of the Department of Higher Education;
- (2) The Commissioner of Education;
- (3) The Director of the Department of Workforce Education;
- (4) The Director of the Division of Child Care and Early Childhood Education of the Department of Human Services or his or her designee;
- (5) The Director of the Arkansas Economic Development Commission;

(6) The Vice President for Agriculture of the University of Arkansas System;

(7) The President of the Arkansas Science and Technology Authority;

(8) The Director of the Department of Information Systems or his or her designee;

(9) The Governor or the Governor's designee;

(10) One (1) public school administrator appointed by the Governor;

(11) One (1) public school teacher appointed by the Governor;

(12) One (1) president or chancellor of a four-year university appointed by the Presidents Council;

(13) One (1) president or chancellor of a two-year college or two-year branch of a four-year university appointed by the council;

(14) One (1) member of the board of trustees of a four-year university or system of colleges and universities appointed by the council;

(15) One (1) member of the board of trustees of a two-year college or branch appointed by the council;

(16) One (1) member appointed by the President Pro Tempore of the Senate from a list of three (3) nominees submitted by the Executive Director of the Arkansas Education Association;

(17) One (1) member appointed by the Speaker of the House of Representatives from a list of three (3) nominees submitted by the Executive Director of the Arkansas Association of Educational Administrators;

(18) One (1) member appointed jointly by the Speaker of the House of Representatives and the President Pro Tempore of the Senate from a list of three (3) nominees submitted by the Executive Director of the Arkansas School Boards Association; and

(19) One (1) representative of a predominantly black college or university in Arkansas appointed by the Speaker of the House of Representatives.

(c)(1) Each member of the commission shall be a resident of the State of Arkansas throughout his or her term on the commission.

(2) None of the members appointed from the board of trustees of a college or university shall be from an institution from which the president or chancellor of the institution is serving on the commission.

(d) The appointed members of the commission shall serve staggered terms of four (4) years.

(e) If a vacancy occurs in an appointed position, the vacancy shall be filled for the unexpired term by an appointment made in the same manner as the original appointment.

History. Acts 2003 (2nd Ex. Sess.), No. 109, § 1; 2005, No. 1936, § 1; 2007, No. 751, § 1.

A.C.R.C. Notes. Acts 2003 (2nd Ex. Sess.), No. 109, § 2, provided: "Special provisions.

"(a) The first meeting of the Arkansas Commission for Coordination of Educa-

tional Efforts shall be held within thirty (30) days after the effective date of this act.

"(b) The Director of the Department of Education shall call the first meeting of the commission and shall preside at the meeting until the commission elects a chair.

“(c) At the first meeting, the commission shall elect a chair, a vicechair, and a secretary.

“(d) The initial terms of the appointed members of the commission shall be determined by lot so that two (2) members have a one-year term, two (2) members

have a two-year term, two (2) members have a three-year term, and three (3) members have a four-year term.”

Amendments. The 2005 amendment added (b)(7) and (b)(8) and redesignated the remaining subdivisions accordingly.

The 2007 amendment rewrote (b)(8).

6-1-302. Organization and operation.

(a) The Arkansas Commission for Coordination of Educational Efforts shall annually elect a chair, a vice chair, and a secretary.

(b)(1) The commission shall meet at least quarterly each year. Special meetings may be held at the call of the chair, as needed.

(2) The commission shall meet at such times and places that the chair deems necessary, but no meeting shall be held outside the State of Arkansas.

(c) A quorum for conducting business is eight (8) members of the commission.

(d) The Department of Higher Education shall provide staff support for the commission.

(e) The members of the commission may receive expense reimbursement in accordance with § 25-16-902. The expense reimbursement shall be paid by the Department of Education from moneys available for that purpose.

History. Acts 2003 (2nd Ex. Sess.), No. 109, § 1.

A.C.R.C. Notes. Acts 2003 (2nd Ex. Sess.), No. 109, § 2, provided: “Special provisions.

“(a) The first meeting of the Arkansas Commission for Coordination of Educational Efforts shall be held within thirty (30) days after the effective date of this act.

“(b) The Director of the Department of Education shall call the first meeting of the commission and shall preside at the

meeting until the commission elects a chair.

“(c) At the first meeting, the commission shall elect a chair, a vicechair, and a secretary.

“(d) The initial terms of the appointed members of the commission shall be determined by lot so that two (2) members have a one-year term, two (2) members have a two-year term, two (2) members have a three-year term, and three (3) members have a four-year term.”

6-1-303. Duties.

(a) The Arkansas Commission for Coordination of Educational Efforts shall study and recommend policies related to the improvement of coordination among the levels of education from prekindergarten to the graduate level.

(b)(1) The commission shall give priority to improvements benefiting students at all levels of education in Arkansas.

(2) The commission shall work to benefit the State of Arkansas and improve the economy of the state by recommending a more efficient system of education.

(c) The commission shall:

- (1) Recommend policies on concurrent enrollment of high school students in college courses;
- (2) Make recommendations related to a common calendar for all public schools and institutions of higher education;
- (3) Study the various delivery systems of distance learning and recommend ways to improve and make more efficient a delivery system for Arkansas;
- (4) Recommend ways that the public schools, the Department of Education, the Department of Higher Education, and the institutions of higher education can improve working relationships in order to improve the effectiveness of teaching for the public schools;
- (5)(A) Recommend ways of improving the transfer of credit from institution to institution for the benefit of the student.
(B) The transfer of credit includes recommendations for improving the transfer from two-year institutions to four-year institutions as well as the transfer among two-year institutions and four-year institutions;
- (6) Make recommendations related to aligning the curriculum from kindergarten through the bachelor's degree level in colleges and universities;
- (7) Recommend ways of improving the link between educational efforts and economic development for Arkansas;
- (8) Recommend priorities for the funding of education;
- (9) Review all current scholarship programs of the state and institutions of higher education and make recommendations for improving future scholarship programs;
- (10) Make recommendations related to the future need for remediation of beginning college students;
- (11) Make recommendations to improve science, technology, engineering, and mathematics education from kindergarten through the bachelor's degree level in higher education;
- (12) Make recommendations to improve the use of educational technology; and
- (13) Recommend any other improvements in education at any level to benefit students and the state.

History. Acts 2003 (2nd Ex. Sess.), No. 109, § 1; 2005, No. 1936, § 2.

inserted present (c)(11) and (c)(12); and redesignated former (c)(11) as (c)(13).

Amendments. The 2005 amendment

6-1-304. Reporting requirements.

(a)(1) The Arkansas Commission for Coordination of Educational Efforts shall submit an annual report to the Governor, the Senate Committee on Education, the House Committee on Education, the State Board of Education, the Arkansas Higher Education Coordinating Board, and to all boards of trustees of public institutions of higher education.

(2) Additional reports shall be given to committees of the General Assembly upon request of a committee.

(b) All state agencies, institutions of higher education, and public schools shall cooperate with the commission and supply data and information needed by the commission in a timely manner.

History. Acts 2003 (2nd Ex. Sess.), No. 109, § 1.

CHAPTER 2

CORPORATE CHARTERS

SECTION.

- 6-2-101. Applicability.
- 6-2-102. Number of persons required to incorporate — Name of association.
- 6-2-103. Purpose — Use of funds or property.
- 6-2-104. Initial meeting — Quorum.
- 6-2-105. Trustees.
- 6-2-106. [Repealed.]
- 6-2-107. Change of name or provisions.

SECTION.

- 6-2-108. Filing and recording fees.
- 6-2-109. Corporate power and government.
- 6-2-110. Power to borrow for the construction of facilities.
- 6-2-111. Degrees, diplomas, and honors.
- 6-2-112. Gift, bequest, or devise for particular purpose.
- 6-2-113. Prohibition on gaming and liquor sales.

Preambles. Acts 1965, No. 562 contained a preamble which read: "Whereas, the United States Government is making substantial contributions toward meeting the need for additional housing, administrative, laboratory, and library facilities of the institutions of learning organized under the provisions of Chapter 14 of Title 64, Arkansas Statutes, 1947, and is requiring that the long-term bonds that are being issued to secure funds for these facilities be secured in part by a mortgage upon the project for which bonds are issued and the ground upon which the project is built, so that it becomes most important that there be an express grant of the power to meet these requirements by the said institutions of learning;

"Now, therefore...."

Effective Dates. Acts 1871, No. 42, § 10: effective on passage.

Acts 1911, No. 375, § 14: effective on passage.

Acts 1965, No. 562, § 3: Mar. 24, 1965. Emergency clause provided: "It has been found and is declared by the General Assembly that there is an urgent need for additional housing facilities, classrooms, libraries, and laboratories for the institutions affected by this act; that the amount of federal aid money is limited; that the essential functions of these institutions are jeopardized by their lack of power to acquire necessary funds; and that enactment of this measure will provide the remedy. Therefore, an emergency is declared to exist, and this act being necessary for the preservation of the public peace, health, and safety, shall take effect and be in force from the date of its approval."

6-2-101. Applicability.

The provisions of this chapter shall apply to all institutions at present existing under or by virtue of charters in the State of Arkansas.

History. Acts 1911, No. 375, § 10; C. & M. Dig., § 1773; A.S.A. 1947, § 64-1410.

6-2-102. Number of persons required to incorporate — Name of association.

Any number of persons, the multiple of three (3), not less than six (6) nor more than thirty-three (33), who have associated or shall associate, according to the provisions of this chapter, under any name assumed by them, for the purpose of founding or maintaining any institution of learning, and who shall comply with the provisions of this chapter, shall, with their successors, constitute a body corporate under the name assumed by them in their articles of association. The name so assumed shall not be the same as that of any other educational institution in the state.

History. Acts 1911, No. 375, § 1; C. & M. Dig., § 1764; A.S.A. 1947, § 64-1401.

CASE NOTES

Cited: Hilger v. Harding College, Inc., 231 Ark. 686, 331 S.W.2d 851 (1960).

6-2-103. Purpose — Use of funds or property.

(a) The purpose for which every such corporation shall be established shall be distinctly specified in its articles of association.

(b) It shall not be lawful for the corporation to divert or appropriate its funds or property for any other purpose unless authorized to do so by the person, conference, convention, association, synod, or other body under whose auspices the institution may have been established or for whose benefit it may be maintained, or by which it may be controlled.

History. Acts 1911, No. 375, § 2; C. & M. Dig., § 1765; A.S.A. 1947, § 64-1402.

6-2-104. Initial meeting — Quorum.

When the requisite number of persons shall have associated according to the provisions of this chapter, any three (3) of them may call the first meeting of the corporation by giving notice of the meeting to each member of the association by written or printed circulars at least ten (10) days before the time of the meeting and when they shall elect the necessary officers. The majority of members shall constitute a quorum.

History. Acts 1911, No. 375, § 3; C. & M. Dig., § 1766; A.S.A. 1947, § 64-1403.

6-2-105. Trustees.

(a) The persons thus associated shall be the trustees of the proposed institution.

(b) Unless they otherwise provide in their charter, the trustees shall annually elect their officers from their number.

(c) Unless otherwise provided by their charter, one-third ($\frac{1}{3}$) of the whole number of the trustees shall be annually retired from the office, the number to be determined by lot, and others, or the same persons, shall be elected to fill the vacancies.

(d) The trustees shall hold office until their successors have been elected in the manner provided above.

History. Acts 1911, No. 375, § 4; C. & M. Dig., § 1767; A.S.A. 1947, § 64-1404.

6-2-106. [Repealed.]

Publisher's Notes. This section, concerning certification and revocation of charters, was repealed by Acts 1993, No. 294, § 2. The section was derived from

Acts 1911, No. 375, § 9; C. & M. Dig., § 1772; Acts 1975, No. 903, § 6; A.S.A. 1947, § 64-1409.

6-2-107. Change of name or provisions.

(a) Whenever the trustees of any corporate institution of learning are desirous of changing its name or the provisions of its charter, they may meet at their regular place of transacting business and change the name of the institution or the provisions of its charter.

(b) A majority of all the trustees shall consent to the change, and no change shall be made without due notice of the meeting and the intention thereof given to the several trustees at least ten (10) days before the time of such meeting.

(c) When a change of name or of the provisions of the charter shall be made, the changes shall not be effective until they are approved by the State Board of Education.

(d) When a change is so approved, a copy of the resolution of the board of trustees providing for such a change, together with a certificate of the State Board of Education as to its approval, shall be filed in the office of the Secretary of State and recorded by him or her in a book to be kept for such purposes.

History. Acts 1911, No. 375, §§ 11, 12; C. & M. Dig., §§ 1774, 1775; A.S.A. 1947, §§ 64-1411, 64-1412.

6-2-108. Filing and recording fees.

The Secretary of State may set and receive a reasonable fee for the filing and recording of a charter of any educational institution or any certificate as to change of name or of the provisions of any such charter.

Such fee shall be paid by the board of trustees of the institution filing such document.

History. Acts 1911, No. 375, § 13; C. & M. Dig., § 1776; A.S.A. 1947, § 64-1413; Acts 1993, No. 294, § 2.

6-2-109. Corporate power and government.

(a) Unless otherwise provided in its charter or by the governing body of the church or denomination under whose control the institution is organized and maintained, the corporation thus formed shall:

- (1) Have perpetual succession;
 - (2) Be empowered to fill all vacancies occurring in the corporation by removal, death, resignation, or expiration of term of office;
 - (3) Have power to sue and be sued, to contract and be contracted with, to make and to use a common seal and to alter it at pleasure;
 - (4) Have power to buy and to sell real and personal property and to take by gift, conveyance, devise, or bequest, real and personal property, and to hold them;
 - (5) Have power to enter into cooperative relations with other educational institutions for the establishment and maintenance of such departments or schools as they may agree to correlate; and
 - (6) Have power to make rules for the government of such departments or schools as they may deem proper.
- (b) The board of trustees of the corporation:
- (1) Shall be charged with the government of the institutions established by its agency and the appointment of all officers and instructors therefor and the compensation of them; and
 - (2) May delegate their powers of government to the president and faculty of any such institutions or to an executive committee composed of three (3) or more of its members.

History. Acts 1911, No. 375, § 5; C. & M. Dig., § 1768; A.S.A. 1947, § 64-1405.

CASE NOTES

Cited: Hilger v. Harding College, Inc., 231 Ark. 686, 331 S.W.2d 851 (1960).

6-2-110. Power to borrow for the construction of facilities.

The governing body of a corporation organized under the provisions of this chapter shall have the power, for and on behalf of the corporation:

- (1) To borrow money from time to time for construction of facilities for its corporate purposes;
- (2) To evidence such indebtedness by promissory notes, bonds, or other negotiable evidences of indebtedness;
- (3) To secure the payment and the interest on the money borrowed by mortgage, pledge, conveyance, or assignment in trust of the whole or

any part of the real and personal property of the corporation, whether at the time owned or thereafter acquired; and

(4) To sell, pledge, and otherwise dispose of bonds or other obligations of the corporation issued for its corporate purposes.

History. Acts 1965, No. 562, § 1; A.S.A. 1947, § 34-1415.

6-2-111. Degrees, diplomas, and honors.

(a) All institutions incorporated as colleges or universities shall have power to confer the customary degrees and grant the usual diplomas and honors conferred by reputable institutions of like grade.

(b)(1) No degree or diploma of any kind shall be conferred by any institution of higher education that has not been incorporated in the manner provided by law.

(2) No institution of higher education shall confer degrees upon students for mere correspondence courses or upon any student who has not studied in residence at the institution for one (1) scholastic year.

(3) No purely honorary degree shall be conferred except by institutions of higher education maintaining standard collegiate or university courses with at least six (6) full professors and a body of genuine college or university students in residence.

(c)(1) Any president, professor, or other officer of any institution of higher education who shall violate the provisions of subsection (b) of this section shall be guilty of a violation and upon conviction shall be fined in any sum not less than fifty dollars (\$50.00) nor more than one thousand dollars (\$1,000).

(2) It is made the duty of the Arkansas Higher Education Coordinating Board to enforce this section.

History. Acts 1911, No. 375, §§ 7, 8; C. & M. Dig., §§ 1770, 1771; A.S.A. 1947, §§ 64-1407, 64-1408; Acts 1993, No. 294, § 2; 2005, No. 1994, § 58.

Amendments. The 2005 amendment substituted "violation" for "misdemeanor" in (c)(1).

6-2-112. Gift, bequest, or devise for particular purpose.

No gift, bequest, or devise made to any such institution for a particular purpose shall be applied to any other purpose unless it is impossible or impracticable for the original purpose to be executed.

History. Acts 1911, No. 375, § 6; C. & M. Dig., § 1769; A.S.A. 1947, § 64-1406.

6-2-113. Prohibition on gaming and liquor sales.

(a) To protect the youth assembled at institutions organized under the provisions of this chapter, while removed from the customary restraints of home and parental watch-care, it is declared to be a misdemeanor to entice any student of such institution into the practice

of gaming or to furnish any student any device or instrument for gaming or any intoxicating liquors of any kind whatever.

(b) If the institution is located in a city or any incorporated town or village where a majority of the legal voters embraced in the territory within three (3) miles of the institution so decide by petition to the county court, then any billiard room, bowling alley, or race course, or any device or instrument for gaming, or any brothel or house of ill fame, or theatrical or circus exhibition, or public place where intoxicating liquors are either given away or sold, except for mechanical or medicinal purposes, within three (3) miles of the site of the institution shall be prohibited by the court.

(c) Any person who violates such regulation established by the court shall be guilty of a Class B misdemeanor.

History. Acts 1871, No. 42, § 7; C. & M. Dig., § 1777; A.S.A. 1947, § 64-1414; Acts 2005, No. 1994, § 384.

Amendments. The 2005 amendment substituted "guilty of a Class B misdemeanor" for "punished by fine of not

less than fifty dollars (\$50.00) nor more than one thousand dollars (\$1,000), or imprisoned in the county jail not less than ten (10) days nor longer than three (3) months, or both, at the discretion of the court" in (c).

CHAPTER 3

ARKANSAS EDUCATIONAL TELEVISION COMMISSION

SECTION.

6-3-101. Creation.

6-3-102. Members.

6-3-103. Organization — Rules and regulations.

6-3-104. Agents and employees.

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SECTION.

6-3-108. Equipment — Limits on commission responsibility.

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6-3-111. Budget requests.

6-3-112. Authorization for lease of facilities.

6-3-113. Eminent domain power.

A.C.R.C. Notes. References to "this chapter" in §§ 6-3-101 — 6-3-111 may not apply to §§ 6-3-112 and 6-3-113 which were enacted subsequently.

Effective Dates. Acts 1961, No. 198, § 9: Mar. 8, 1961. Emergency clause provided: "It has been found and is declared by the General Assembly that public education has suffered severely from numerous disruptive influences in the past half decade; that dangerous propaganda inimical to the American way of life is rampant on all sides; that the young people of the State, future citizens and leaders, are the chief objects of brainwashing operations engineered by the minions of totalitarian-

ism; that countermeasures to such subversive influences are necessary to the continued existence of constitutional democracy; that enactment of this bill will contribute materially to defeating the aims of this subversive propaganda. Therefore, an emergency is declared to exist and this act, being necessary for the preservation of the public peace, health, and safety, shall take effect and be in force from the date of its approval."

Acts 1963, No. 493, § 3: Mar. 20, 1963. Emergency clause provided: "It is hereby found and determined by the General Assembly that it is in the best interests of the development of educational television

in this State and of all the citizens of this State that the membership of the Arkansas Educational Television Commission be more equitably distributed over the State, and that persons engaged in the field of public education be qualified to membership on said Commission, and that this Act is immediately necessary to accomplish these purposes. Therefore an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety, shall be in effect from the date of its passage and approval."

Acts 1967, No. 421, § 3: Mar. 16, 1967. Emergency clause provided: "It is hereby found and determined by the General Assembly that it is necessary for the Educational Television Commission to either prepare or purchase instructional materials for sale to schools in this State, to be used in connection with educational television programs offered by the educational television studio, and it is immediately necessary to establish authority for said Commission to create a revolving cash fund into which receipts from such sales may be deposited and from which expenditures may be made to purchase instructional materials, and to pay the cost of freight, postage, and other handling costs in the distribution thereof to schools in this State. Therefore, an emergency is hereby declared to exist, and this act being immediately necessary for the preservation of the public peace, health and safety, shall be in full force and effect from and after its passage and approval."

Acts 1967, No. 481, § 3: Apr. 4, 1967. Emergency clause provided: "It is hereby found and determined by the General Assembly that Educational Television Commission must, in order to obtain the services of capable personnel, enter into contracts with other educational institutions in this State, and that the immediate passage of this act is necessary to establish a method and procedure whereby the Educational Television Commission may make payment for such services. Therefore, an emergency is hereby declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety, shall be in full force and effect from and after its passage and approval."

Acts 1969, No. 295, § 3: Mar. 21, 1969. Emergency clause provided: "It is hereby

found and determined by the General Assembly that the present statutory provisions are not clear as to how the moneys received by the Educational Television Commission from gifts and grants are to be handled; that there is no authorization for depositing such moneys in a bank account and disbursing such moneys for the purposes for which they were donated or granted; and that only by the passage of this act can this ambiguity be corrected. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety, shall become effective from and after its passage and approval."

Acts 1977, No. 642, § 3: July 1, 1977.

Acts 1981, No. 10, § 3: Feb. 2, 1981. Emergency clause provided: "It is hereby found and determined by the Seventy Third General Assembly, that the immediate passage of this Act is necessary to prevent irreparable harm to the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the immediate preservation of the public peace, health and safety, shall be in full force and effect from and after its passage and approval."

Acts 1987, No. 914, § 11: July 1, 1987. Emergency clause provided: "It is hereby found and determined by the Seventy-Sixth General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1987 is essential to the operation of the agency for which the appropriations in this Act are provided; and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1987 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1987."

Acts 1989 (1st Ex. Sess.), No. 126, § 12: July 1, 1989. Emergency clause provided: "It is hereby found and determined by the Seventy-Seventh General Assembly, that the Constitution of the State of Arkansas

prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1989 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1989 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1989."

Acts 1993, No. 61, § 12 and No. 1313, § 45: July 1, 1993. Emergency clause provided: "It is hereby found and determined by the Seventy-Ninth General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1993 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1993 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1993."

Acts 1997, No. 250, § 258: Feb. 24, 1997. Emergency clause provided: "It is hereby found and determined by the Gen-

eral Assembly that Act 1211 of 1995 established the procedure for all state boards and commissions to follow regarding reimbursement of expenses and stipends for board members; that this act amends various sections of the Arkansas Code which are in conflict with the Act 1211 of 1995; and that until this cleanup act becomes effective conflicting laws will exist. Therefore an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 2005, No. 2167, § 16: July 1, 2005. Emergency clause provided: "It is found and determined by the General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 2005 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 2005 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 2005."

6-3-101. Creation.

There is created the Arkansas Educational Television Commission.

History. Acts 1961, No. 198, § 1; A.S.A. 1947, § 80-3901; A.S.A. 1947, § 5-910.

A.C.R.C. Notes. Acts 1971, No. 38, § 10 transferred the functions, powers, and duties of the Arkansas Educational

Television Commission to the newly created Educational Television Division of the Department of Education in a type 4 transfer.

6-3-102. Members.

(a)(1) The Arkansas Educational Television Commission shall consist of eight (8) members, who shall be residents and qualified electors of the State of Arkansas, with at least one (1) member being appointed from each of the congressional districts of the state.

(2) At least one (1) member shall be a person who is actively engaged in the field of education in the public school system of this state, and one (1) member shall be a person actively engaged in education in an institution of higher learning in this state.

(3) No member of the commission shall hold any other office of profit or trust under the United States, the State of Arkansas, or any political subdivision thereof, or any office or employment paid in whole or in part by any funds derived from tax sources, except persons actively engaged in the field of education in the public schools or institutions of higher learning in this state.

(4) No member of the commission shall have any financial interest in any facilities such as the commission is authorized to deal with, including any interest in any commercial television or radio station.

(b)(1) Members of the commission shall be appointed by the Governor with the advice and consent of the Senate for terms of eight (8) years.

(2) Members of the commission shall be eligible for reappointment.

(3) If a vacancy occurs at a time when the Senate is in session, the Governor shall, with the advice and consent of the Senate, appoint another member of the commission for the unexpired term.

(4) If a vacancy occurs when the Senate is not in session, the Governor shall appoint a member of the commission who shall take office immediately, but his or her appointment shall be subject to confirmation by the Senate at the next session of the General Assembly.

(5) If the appointment of such member of the commission is confirmed by the Senate, he or she shall serve the remainder of the unexpired term.

(c) Each member may receive expense reimbursement and stipends in accordance with § 25-16-901 et seq.

History. Acts 1961, No. 198, §§ 2, 3; 1963, No. 493, § 1; 1977, No. 642, § 1; A.S.A. 1947, §§ 80-3902, 80-3902.1, 80-3903; Acts 1989 (1st Ex. Sess.), No. 126, § 8; 1997, No. 250, § 12.

A.C.R.C. Notes. The terms of the members of the Arkansas Educational Television Commission are arranged so that one term expires every year.

6-3-103. Organization — Rules and regulations.

(a) Promptly after their appointment, the members of the Arkansas Educational Television Commission shall meet to organize.

(b) At the meeting they shall choose from their number a chair, a secretary, and such other officers as they deem necessary.

(c) Thereafter officers shall be elected annually.

(d) The commission shall adopt rules regulating the conduct of its meetings and the transaction of the business of the commission.

History. Acts 1961, No. 198, § 4; 1963, No. 493, § 2; A.S.A. 1947, § 80-3904.

6-3-104. Agents and employees.

(a) The Arkansas Educational Television Commission may appoint such agents and employees as it deems necessary or may delegate to one (1) or more of its members, officers, agents, or employees such powers and duties as it deems proper and is authorized to do by legislation.

(b)(1) The commission is authorized to contract with other educational institutions in this state for the employment and use, on a contract basis, of the full-time or part-time services of employees of those educational institutions and may pay for their services in accordance with the provisions of such contracts.

(2) In the event the commission shall determine that the use of full-time or part-time services of employees of such other educational institutions in this state shall make it necessary that payment therefor be from funds appropriated for the commission for the payment of regular salaries of employees of the commission, upon certification of the amount to the Chief Fiscal Officer of the State, the amount shall be transferred from the appropriation made for regular salaries of the commission for the fiscal year involved to the appropriation for maintenance and general operation of the commission for such fiscal year and may be expended for payments under contracts as authorized herein.

History. Acts 1961, No. 198, § 4; 1963, No. 493, § 2; 1967, No. 481, § 1; A.S.A. 1947, §§ 80-3904, 80-3907.

6-3-105. Purpose — Powers and duties generally.

(a) The Arkansas Educational Television Commission is organized for the purpose of making the benefits of educational television available to and promoting its use by inhabitants of Arkansas.

(b) To this end, the Arkansas Educational Television Commission is empowered and directed to survey, study, and appraise the need for an overall plan for the use of television facilities available for noncommercial educational use in the state.

(c) The Arkansas Educational Television Commission is specifically charged with the duty of controlling and supervising the use of channels reserved by the Federal Communications Commission to Arkansas for noncommercial educational use.

(d) The Arkansas Educational Television Commission may designate the location of stations to utilize such channels and make rules and regulations governing the operation of these stations and the programs

televised over these channels. The Arkansas Educational Television Commission may own and operate television stations to utilize these channels, or it may contract with individuals, corporations, educational institutions, or other governmental agencies for the operation of such stations.

History. Acts 1961, No. 198, § 5; A.S.A. 1947, § 80-3905.

6-3-106. Execution of contracts.

The Arkansas Educational Television Commission is authorized to execute all contracts and other instruments necessary and convenient to carry out the mandates of this chapter.

History. Acts 1961, No. 198, § 6; 1969, No. 295, § 1; A.S.A. 1947, § 80-3906.

6-3-107. Acceptance of gifts or grants.

(a) The Arkansas Educational Television Commission may solicit and accept gifts or grants of money, real or personal property, and voluntary and uncompensated services from any person, federal or other governmental agency, board of education, educational institution, or commercial or industrial enterprise.

(b) Any gifts and grants of money and any moneys derived from the sale of real or personal property donated to the commission may be placed in a bank in this state and may be disbursed by the commission for the purposes for which the gifts, grants, or real or personal property was donated or granted.

History. Acts 1961, No. 198, § 6; 1969, No. 295, § 1; A.S.A. 1947, § 80-3906.

6-3-108. Equipment — Limits on commission responsibility.

After receipt of any equipment furnished or installed by the Arkansas Educational Television Commission, the commission will not be responsible:

- (1) For additional reception problems which may occur; or
- (2) For replacement of any of the furnished equipment.

History. Acts 1981, No. 10, § 2; A.S.A. 1947, § 80-3909.

6-3-109. Revolving cash fund.

(a) The Arkansas Educational Television Commission is authorized to establish in a bank authorized to do business in this state, selected by the commission, a revolving cash fund into which the commission shall pay all funds received from the sale of instructional materials prepared by the commission or purchased by the commission and sold

to schools in this state in connection with educational television programs.

(b) In addition, the commission is authorized to expend from the revolving cash fund amounts necessary to purchase instructional materials for sale to schools to be used for educational television purposes, including the cost of freight, postage, handling, and other delivery costs incidental to the purchase or sale.

(c) The commission shall keep a complete record of all receipts and expenditures from the revolving cash fund and shall make the record available to the Division of Legislative Audit for audit and verification.

History. Acts 1967, No. 421, § 1; A.S.A. 1947, § 80-3908.

6-3-110. Appropriation and annual audit — State employees.

(a) No person employed by the Arkansas Educational Television Commission and paid from state funds shall receive supplemental compensation or remuneration from funds not appropriated by the state.

(b) Only an appropriate state employee may supervise state employees of the Educational Television Division of the Department of Education. No person or employee paid with funds not appropriated by the General Assembly shall supervise any state employee of the division.

(c) As used in this section, “state employee” means an individual paid by funds appropriated by the General Assembly.

History. Acts 1987, No. 914, § 6; 1993, No. 61, § 6; 1993, No. 1313, § 36; 1995, No. 1296, § 12; 2005, No. 2167, § 12; Acts 2007, No. 827, § 112.

deleted former (a) and (b); and redesignated former (c) and (d) as present (a) and (b).
 The 2007 amendment rewrote (b), and added (c).

Amendments. The 2005 amendment

6-3-111. Budget requests.

The Director of the Educational Television Division of the Department of Education shall submit budget requests of the division to the State Board of Education and the Commissioner of Education for their review and approval before the budget submissions are forwarded to the Governor and the Legislative Council.

History. Acts 1987, No. 914, § 7.

6-3-112. Authorization for lease of facilities.

(a) The Arkansas Educational Television Commission is authorized and empowered to arrange for the use of its facilities, including, without limitation, tower space, studios, and equipment, by any federal, state, or local governmental agency or by any other person, from time to time, as any of such facilities are not needed by the commission, and to collect fees and charges, as the commission determines to be reasonable, in

connection with the use of any such facilities by any other person; provided, however, agencies and educational institutions of the State of Arkansas shall have preference for the use of commission facilities over other entities and persons and shall be assessed fees and charges at preferential rates as determined by the commission.

(b) The commission shall be exempt from complying with general provisions of other laws dealing with public commodities and facilities and their acquisition, leasing, or disposition in relation to the use of its studios by other persons in such cases, as advertising for bids would be impractical because of time limitations.

(c) Any revenue received by the commission from the use of its facilities by other persons shall be cash funds pursuant to § 6-3-109.

(d) The commission is authorized to promulgate such regulations as it deems necessary for the implementation of this section.

History. Acts 1993, No. 329, §§ 1-4.

apply to this section which was enacted subsequently.

A.C.R.C. Notes. References to "this chapter" in §§ 6-3-101 — 6-3-111 may not

6-3-113. Eminent domain power.

(a)(1) The Arkansas Educational Television Commission is hereby granted the right of eminent domain to condemn real property leased or rented by the commission if the property is deemed to be necessary or desirable by the commission for making the benefits of educational television available to the citizens of Arkansas or to otherwise carry out the purposes of this chapter, and if the commission is unable to agree with the owner of the land, or if, by legal incapacity or absence of the owner, no agreement can be made for the purchase.

(2) All suits for condemnation of real property under the provisions of this section shall be brought by the commission in the name of the State of Arkansas.

(3) The real property may be acquired in fee simple or in any lesser estate.

(b) The commission is authorized to make payment for real property acquired under the provisions of this section out of any appropriation made for the commission. No land shall be taken or contracted to be taken for an amount beyond the sum available therefor.

(c) The commission shall exercise the power of eminent domain in the manner provided for in § 27-67-311 et seq.

(d) Actions by the commission to condemn real property shall be brought in the county in which the land is situated. If the land is located in more than one (1) county, the action may be brought in any county in which the land is situated.

History. Acts 1993, No. 1007, §§ 1-4.

apply to this section which was enacted subsequently.

A.C.R.C. Notes. References to "this chapter" in §§ 6-3-101 — 6-3-111 may not

CHAPTER 4

INTERSTATE COMPACTS

SUBCHAPTER.

1. SOUTHERN REGIONAL EDUCATION COMPACT.
2. COMPACT FOR EDUCATION.

Cross References. Student loans,
§ 6-81-101 et seq.

SUBCHAPTER 1 — SOUTHERN REGIONAL EDUCATION COMPACT

SECTION.

- 6-4-101. Text of compact.
- 6-4-102. Legislative approval.
- 6-4-103. Copy furnished states upon approval.
- 6-4-104. Agent for out-of-state education.

SECTION.

- 6-4-105. Contracts for out-of-state education.
 - 6-4-106. Application by students.
 - 6-4-107. Disbursing agent.
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Publisher's Notes. Acts 1985, No. 253, §§ 1, 2 granted state approval of the admission of Oklahoma as a party state to the Southern Regional Education Compact and directed the Secretary of State to transmit a copy of that act to the Southern Regional Education Board.

Preambles. Acts 1957, No. 51 contained a preamble which read: "Whereas, in 1949 the State of Arkansas joined with other Southern States in the formation of the Southern Regional Educational Compact; and

"Whereas, a number of changes in said Compact have been proposed since its creation in 1949; and

"Whereas, it is the purpose of this Act to give effect to such proposed changes;

"Now, therefore...."

Effective Dates. Acts 1957, No. 51, § 5: Feb. 15, 1957. Emergency clause provided: "It has been found and is hereby declared by the General Assembly of the State of Arkansas that the educational system of this State is overcrowded, that there is a need for greater educational advantages and facilities for the citizens of this State in the professional, technological, scientific, literary, and other fields, and that enactment of this Compact will help provide the facilities to meet these

needs and relieve this overcrowded condition. Therefore, an emergency is declared to exist, and this Act being necessary for the preservation of the public peace, health, and safety, shall take effect and be in force from the date of its approval."

Acts 1957, No. 243, § 7: Mar. 12, 1957. Emergency clause provided: "It has been found and is declared by the General Assembly of Arkansas that courses of study in certain advanced fields of higher education are unavailable in Arkansas, that Arkansas residents find it difficult to secure admission to institutions in other states in the southern region because they are nonresidents, that the General Assembly has acknowledged and approved Arkansas' participation in the Board of Control for Southern Regional Education which has among its purposes that of furthering admission of students to institutions of learning which might otherwise decline their admission because they are nonresidents, that there is urgent need for Arkansas residents to be accepted for admission to study certain areas of education facilities which are unavailable in Arkansas and which may remain unavailable because of the prohibitive cost of creating and maintaining such courses of study here, and that enactment of this bill

will provide for ending this discrimination against Arkansas residents. Therefore, an emergency is declared to exist, and this act being necessary for the preservation of the public peace, health and safety, shall take effect and be in force from the date of its approval."

Acts 1993, No. 1259, § 18: July 1, 1993. Emergency clause provided: "It is hereby found and determined by the Seventy-Ninth General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1993 is essential to

the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1993 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1993."

6-4-101. Text of compact.

The Governor on behalf of this state is authorized to execute a compact, in substantially the following form, with any one (1) or more of the States of Alabama, Delaware, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia, and West Virginia, and the General Assembly signifies in advance its approval and ratification of such compact:

SOUTHERN REGIONAL EDUCATION COMPACT

ARTICLE I.

In consideration of the mutual agreements, covenants, and obligations assumed by the respective states who are parties hereto, namely: Alabama, Delaware, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia, and West Virginia (hereinafter referred to as "states"), the said several states do hereby form a geographical district or region consisting of the areas lying within the boundaries of the contracting states which, for the purposes of this compact, shall constitute an area for regional education support by public funds derived from taxation by the constituent states and derived from other sources for the establishment, acquisition, operation, and maintenance of regional educational schools and institutions for the benefit of citizens of the respective states residing within the region so established as may be determined from time to time in accordance with the terms and provisions of this compact.

ARTICLE II.

The states do further hereby establish and create a joint agency which shall be known as the Board of Control for Southern Regional

Education (hereinafter referred to as the "board"), the members of which board shall consist of the Governor of each state, ex officio, and four (4) additional citizens of each state to be appointed by the Governor thereof, at least one (1) of whom shall be selected from the field of education, and at least one (1) of whom shall be a member of the legislature of that state.

The Governor shall continue as a member of the board during his tenure of office as Governor of the state, but the members of the board appointed by the Governor shall hold office for a period of four (4) years except that in the original appointments one (1) board member so appointed by the Governor shall be designated at the time of his appointment to serve an initial term of two (2) years, one (1) board member to serve an initial term of three (3) years, and the remaining board member to serve the full term of four (4) years, but thereafter the successor of each appointed board member shall serve the full term of four (4) years. Vacancies on the board caused by death, resignation, refusal or inability to serve shall be filled by appointment by the Governor for the unexpired portion of the term. The officers of the board shall be a chairman, a vice chairman, a secretary, a treasurer, and such additional officers as may be created by the board from time to time. The board shall meet annually and officers shall be elected to hold office until the next annual meeting. The board shall have the right to formulate and establish bylaws not inconsistent with the provisions of this compact to govern its own actions in the performance of the duties delegated to it including the right to create and appoint an Executive Committee and a Finance Committee with such powers and authority as the board may delegate to them from time to time. The board may, within its discretion, elect as its chairman a person who is not a member of the board, provided such person resides within a signatory state, and upon such election such person shall become a member of the board with all the rights and privileges of such membership.

ARTICLE III.

It shall be the duty of the board to submit plans and recommendations to the states from time to time for their approval and adoption by appropriate legislative action for the development, establishment, acquisition, operation and maintenance of educational schools and institutions within the geographical limits of the regional area of the states, of such character and type and for such educational purposes, professional, technological, scientific, literary, or otherwise, as they may deem and determine to be proper, necessary, or advisable. Title to all such educational institutions when so established by appropriate legislative actions of the states and to all properties and facilities used in connection therewith shall be vested in said board as the agency of and for the use and benefit of the said states and the citizens thereof, and all such educational institutions shall be operated, maintained, and financed in the manner herein set out, subject to any provisions or

limitations which may be contained in the legislative acts of the states authorizing the creation, establishment, and operation of such educational institutions.

ARTICLE IV.

In addition to the power and authority heretofore granted, the board shall have the power to enter into such agreements or arrangements with any of the states and with educational institutions or agencies, as may be required in the judgment of the board, to provide adequate services and facilities for the graduate, professional, and technical education for the benefit of the citizens of the respective states residing within the region, and such additional and general power and authority as may be vested in the board from time to time by legislative enactment of the said states.

ARTICLE V.

Any two (2) or more states who are parties of this compact shall have the right to enter into supplemental agreements providing for the establishment, financing, and operation of regional educational institutions for the benefit of citizens residing within an area which constitutes a portion of the general region herein created, such institutions to be financed exclusively by such states and to be controlled exclusively by the members of the board representing such states provided such agreement is submitted to and approved by the board prior to the establishment of such institutions.

ARTICLE VI.

Each state agrees that, when authorized by the legislature, it will from time to time make available and pay over to said board such funds as may be required for the establishment, acquisition, operation, and maintenance of such regional educational institutions as may be authorized by the states under the terms of this compact, the contribution of each state at all times to be in the proportion that its population bears to the total combined population of the states who are parties hereto as shown from time to time by the most recent official published report of the Bureau of the Census of the United States of America; or upon such other basis as may be agreed upon.

ARTICLE VII.

This compact shall not take effect or be binding upon any state unless and until it shall be approved by proper legislative action of as many as six (6) or more of the states whose governors have subscribed hereto within a period of eighteen (18) months from the date hereof. When and if six (6) or more states shall have given legislative approval to this compact within said eighteen (18) months' period, it shall be and become binding upon such six (6) or more states sixty (60) days after the

date of legislative approval by the sixth state and the governors of such six (6) or more states shall forthwith name the members of the board from their states as hereinabove set out, and the board shall then meet on call of the Governor of any state approving this compact, at which time the board shall elect officers, adopt bylaws, appoint committees, and otherwise fully organize. Other states whose names are subscribed hereto shall thereafter become parties hereto upon approval of this compact by legislative action within two (2) years from the date hereof, upon such conditions as may be agreed upon at the time. Provided, however, that with respect to any state whose constitution may require amendment in order to permit legislative approval of the compact, such state or states shall become parties hereto upon approval of this compact by legislative action within seven (7) years from the date hereof, upon such conditions as may be agreed upon at the time.

ARTICLE VIII.

After becoming effective this compact shall thereafter continue without limitation of time; provided, however, that it may be terminated at any time by unanimous action of the states and provided further that any state may withdraw from this compact if such withdrawal is approved by its legislature, such withdrawal to become effective two (2) years after written notice thereof to the board accompanied by a certified copy of the requisite legislative action, but such withdrawal shall not relieve the withdrawing state from its obligations hereunder accruing up to the effective date of such withdrawal. Any state so withdrawing shall ipso facto cease to have any claim to or ownership of any of the property held or vested in the board or to any of the funds of the board held under the terms of this compact.

ARTICLE IX.

If any state shall at any time become in default in the performance of any of its obligations assumed herein or with respect to any obligation imposed upon said state as authorized by and in compliance with the terms and provisions of this compact, all rights, privileges, and benefits of such defaulting state, its members on the board, and its citizens shall ipso facto be and become suspended from and after the date of such default. Unless such default shall be remedied and made good within a period of one (1) year immediately following the date of such default, this compact may be terminated with respect to such defaulting state by an affirmative vote of three-fourths ($\frac{3}{4}$) of the members of the board (exclusive of the members representing the state in default), from and after which time such state shall cease to be a party to this compact and shall have no further claim to or ownership of any of the property held by or vested in the board or to any of the funds of the board held under the terms of this compact, but such termination shall in no manner release such defaulting state from any accrued obligation or otherwise affect this compact or the rights, duties, privileges, or obligations of the remaining states thereunder.

History. Acts 1957, No. 51, § 1; A.S.A. 1947, § 80-3701.

6-4-102. Legislative approval.

(a) The Southern Regional Education Compact is approved, and the State of Arkansas is declared to be a party to the compact.

(b) Agreements, covenants, and obligations in the compact are binding upon the State of Arkansas.

History. Acts 1957, No. 51, § 2; A.S.A. 1947, § 80-3702.

6-4-103. Copy furnished states upon approval.

Upon the approval of this compact by the requisite number of states, the Governor shall sign an engrossed copy of the compact, and sufficient copies shall be provided so that every state approving the compact shall have an engrossed copy.

History. Acts 1957, No. 51, § 3; A.S.A. 1947, § 80-3703.

6-4-104. Agent for out-of-state education.

(a) The Arkansas Higher Education Coordinating Board is designated the agent for the State of Arkansas for the purpose of entering into a program of out-of-state training and education for residents of Arkansas through the cooperation of the Board of Control for Southern Regional Education, which was created by interstate compact with Arkansas, a signatory pursuant to House Concurrent Resolution 13, approved March 2, 1949.

(b) The Department of Higher Education is hereby authorized to administer the program.

History. Acts 1957, No. 243, § 1; A.S.A. 1947, § 80-3704; Acts 1993, No. 1259, § 2; 1999, No. 1218, § 1.

6-4-105. Contracts for out-of-state education.

(a) As agent for the state, the Arkansas Higher Education Coordinating Board shall contract with the Board of Control for Southern Regional Education in order that the latter may act to secure admission of Arkansas residents as students in institutions of higher learning operated by other states who are signatories of the compact.

(b) Contract authority shall include the placing of students for study in the fields for which the Board of Control for Southern Regional Education may maintain programs, including, but not limited to, veterinary medicine and dentistry.

(c)(1) The Arkansas Higher Education Coordinating Board shall contract to pay the Board of Control for Southern Regional Education for Arkansas students accepted under this program.

(2) Provided, in no case will the contract price exceed the amount approved by the Board of Control for Southern Regional Education.

History. Acts 1957, No. 243, §§ 2, 3; A.S.A. 1947, §§ 80-3705, 80-3706; Acts 1993, No. 1259, § 3; 1999, No. 1218, § 2.

6-4-106. Application by students.

(a) Students seeking the subsidy to be paid for their benefit shall apply to the Department of Higher Education, giving necessary information.

(b) If the applicant is found to be a bona fide resident of Arkansas and if funds for this purpose are available, the department shall, without more, certify the applicant as qualified to participate under this program.

History. Acts 1957, No. 243, § 4; A.S.A. 1947, § 80-3707; Acts 1993, No. 1259, § 4; 1999, No. 1218, § 3.

6-4-107. Disbursing agent.

(a) The Department of Higher Education shall be the disbursing agency for the State of Arkansas for the purpose of authorizing payment to the Board of Control for Southern Regional Education under this program.

(b) As the disbursing agent, the department may expend such sums as are specially appropriated for the operation and administration of this program without obligation to maintain the program should the special appropriation be unavailable.

History. Acts 1957, No. 243, § 5; A.S.A. 1947, § 80-3708; Acts 1993, No. 1259, § 5; 1999, No. 1218, § 4.

SUBCHAPTER 2 — COMPACT FOR EDUCATION

SECTION.

6-4-201. Text of compact.

6-4-202. Compact for Education Commissioners of Arkansas.

SECTION.

6-4-203. Filing of bylaws.

Preambles. Acts 1965 (2nd Ex. Sess.), No. 22 contained a preamble which read: "Whereas, the proper education of all citizens is one of the most important responsibilities of the States to preserve a

free and open society in the United States; and

"Whereas, the increased demands of our whole national life for improving and expanding education services require a

broad exchange of research data and information concerning the problems and practices of education; and

"Whereas, there is a vital need for strengthening the voices of the States in the formulation of alternative nationwide educational policies; and

"Whereas, the State of Arkansas hereby joins with other States in affirming the need for close and continued consultation among our several states on all matters of education, and does hereby join with the other States in establishing this Compact For Education to accomplish such purposes...."

Effective Dates. Acts 1965 (2nd Ex. Sess.), No. 22, § 5: Nov. 6, 1965. Emergency clause provided: "It is hereby found and determined by the General Assembly that the establishment of the Compact For Education is essential to public education in this State and is of vital importance to the future economic development and welfare of the people of this State; and, that the immediate enactment hereof is necessary in order that Arkansas' enactment and participation in said Compact may be affirmed thereby expediting the establishment of said Compact to accomplish the purposes for which it is being created.

Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety, shall be in full force and effect from and after its passage and approval."

Acts 1997, No. 250, § 258: Feb. 24, 1997. Emergency clause provided: "It is hereby found and determined by the General Assembly that Act 1211 of 1995 established the procedure for all state boards and commissions to follow regarding reimbursement of expenses and stipends for board members; that this act amends various sections of the Arkansas Code which are in conflict with the Act 1211 of 1995; and that until this cleanup act becomes effective conflicting laws will exist. Therefore an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

6-4-201. Text of compact.

The Compact for Education is entered into and enacted into law with all jurisdictions legally joined therein, in the form substantially as follows:

COMPACT FOR EDUCATION

ARTICLE I.

Purpose and Policy

A. It is the purpose of this compact to:

1. Establish and maintain close cooperation and understanding among executive, legislative, professional educational and lay leadership on a nationwide basis at the state and local levels;

2. Provide a forum for the discussion, development, crystallization, and recommendation of public policy alternatives in the field of education;

3. Provide a clearinghouse of information on matters relating to educational problems and how they are being met in different places

throughout the nation, so that the executive and legislative branches of state government and of local communities may have ready access to the experience and record of the entire country, and so that both lay and professional groups in the field of education may have additional avenues for the sharing of experience and the interchange of ideas in the formation of public policy in education;

4. Facilitate the improvement of state and local educational systems so that all of them will be able to meet adequate and desirable goals in a society which requires continuous qualitative and quantitative advance in educational opportunities, methods, and facilities.

B. It is the policy of this compact to encourage and promote local and state initiative in the development, maintenance, improvement, and administration of educational systems and institutions in a manner which will accord with the needs and advantages of diversity among localities and states.

C. The party states recognize that each of them has an interest in the quality and quantity of education furnished in each of the other states, as well as in the excellence of its own educational systems and institutions, because of the highly mobile character of individuals within the nation and because the products and services contributing to the health, welfare, and economic advancement of each state are supplied in significant part by persons educated in other states.

ARTICLE II.

State Defined

As used in this compact, "state" means a state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

ARTICLE III.

The Commission

A. The Education Commission of the states, hereafter called "the commission," is hereby established. The commission shall consist of seven (7) members representing each party state. One (1) of such members shall be the Governor; two (2) shall be members of the state legislature selected by its respective houses and serving in such manner as the legislature may determine; and four (4) shall be appointed by and serve at the pleasure of the Governor, unless the laws of the state otherwise provide. If the laws of a state prevent legislators from serving on the commission, six (6) members shall be appointed and serve at the pleasure of the Governor, unless the laws of the state otherwise provide. In addition to any other principles or requirements which a state may establish for the appointment and service of its members of the commission, the guiding principle for the composition of the membership on the commission from each party state shall be that the members representing such state shall, by virtue of their training, experience,

knowledge, or affiliations, be in a position collectively to reflect broadly the interests of the state government, higher education, the state education system, local education, lay and professional, public and nonpublic educational leadership. Of those appointees, one (1) shall be the head of a state agency or institution, designated by the Governor, having responsibility for one (1) or more programs of public education. In addition to the members of the commission representing the party states, there may be not to exceed ten (10) nonvoting commissioners selected by the steering committee for terms of one (1) year. Such commissioners shall represent leading national organizations of professional educators or persons concerned with educational administration.

B. The members of the commission shall be entitled to one (1) vote each on the commission. No action of the commission shall be binding unless taken at a meeting at which a majority of the total number of votes on the commission are cast in favor thereof. Action of the commission shall be only at a meeting at which a majority of the commissioners are present. The commission shall meet at least once a year. In its bylaws and subject to such directions and limitations as may be contained therein, the commission may delegate the exercise of any of its powers to the steering committee or the Executive Director, except for the power to approve budgets or requests for appropriations, the power to make policy recommendations pursuant to Article IV, and adoption of the annual report pursuant to Article III-J.

C. The commission shall have a seal.

D. The commission shall elect annually, from among its members, a chairman, who shall be a Governor, a vice chairman, and a treasurer. The commission shall provide for the appointment of an executive director. Such executive director shall serve at the pleasure of the commission, and together with the treasurer and such other personnel as the commission may deem appropriate shall be bonded in such amount as the commission shall determine. The executive director shall be secretary.

E. Irrespective of the civil service, personnel, or other merit system laws of any of the party states, the executive director subject to the approval of the steering committee shall appoint, remove, or discharge such personnel as may be necessary for the performance of the functions of the commission and shall fix the duties and compensation of such personnel. The commission in its bylaws shall provide for the personnel policies and programs of the commission.

F. The commission may borrow, accept, or contract for the services of personnel from any party jurisdiction, the United States, or any subdivision or agency of the aforementioned governments, or from any agency of two (2) or more of the party jurisdictions or their subdivisions.

G. The commission may accept for any of its purposes and functions under this compact any and all donations, and grants of money, equipment, supplies, materials, and services, conditional or otherwise, from any state, the United States, or any other governmental agency, or from any person, firm, association, foundation, or corporation, and may

receive, utilize, and dispose of the same. Any donation or grant accepted by the commission pursuant to this paragraph or services borrowed pursuant to paragraph F of this Article shall be reported in the annual report of the commission. Such report shall include the nature, amount, and conditions, if any, of the donation, grant, or services borrowed, and the identity of the donor or lender.

H. The commission may establish and maintain such facilities as may be necessary for the transacting of its business. The commission may acquire, hold, and convey real and personal property and any interest therein.

I. The commission shall adopt bylaws for the conduct of its business and shall have the power to amend and rescind these bylaws. The commission shall publish its bylaws in convenient form and shall file a copy thereof and a copy of any amendment thereto, with the appropriate agency or officer in each of the party states.

J. The commission annually shall make to the Governor and legislature of each party state a report covering the activities of the commission for the preceding year. The commission may make such additional reports as it may deem desirable.

ARTICLE IV.

Powers

In addition to authority conferred on the commission by other provisions of the compact, the commission shall have authority to:

1. Collect, correlate, analyze, and interpret information and data concerning educational needs and resources;

2. Encourage and foster research in all aspects of education, but with special reference to the desirable scope of instruction, organization, administration, and instructional methods and standards employed or suitable for employment in public educational systems;

3. Develop proposals for adequate financing of education as a whole and at each of its many levels;

4. Conduct or participate in research of the types referred to in this Article in any instance where the commission finds that such research is necessary for the advancement of the purposes and policies of this compact, utilizing fully the resources of national associations, regional compact organizations for higher education, and other agencies and institutions, both public and private;

5. Formulate suggested policies and plans for the improvement of public education as a whole, or for any segment thereof, and make recommendations with respect thereto available to the appropriate governmental units, agencies, and public officials;

6. Do such other things as may be necessary or incidental to the administration of any of its authority or functions pursuant to this compact.

ARTICLE V.

Cooperation with Federal Government

A. If the laws of the United States specifically so provide, or if administrative provision is made therefor within the federal government, the United States may be represented on the commission by not to exceed ten (10) representatives. Any such representative or representatives of the United States shall be appointed and serve in such manner as may be provided by or pursuant to federal law, and may be drawn from any one (1) or more branches of the federal government, but no such representative shall have a vote on the commission.

B. The commission may provide information and make recommendations to any executive or legislative agency or officer of the federal government concerning the common educational policies of the states and may advise with any such agencies or officers concerning any matter of mutual interest.

ARTICLE VI.

Committees

A. To assist in the expeditious conduct of its business when the full commission is not meeting, the commission shall elect a steering committee of thirty-two (32) members which, subject to the provisions of this compact and consistent with the policies of the commission, shall be constituted and function as provided in the bylaws of the commission. One-fourth ($\frac{1}{4}$) of the voting membership of the steering committee shall consist of Governors, one-fourth ($\frac{1}{4}$) shall consist of legislators, and the remainder shall consist of other members of the commission. A federal representative on the commission may serve with the steering committee, but without vote. The voting members of the steering committee shall serve for terms of two (2) years, except that members elected to the first steering committee of the commission shall be elected as follows: sixteen (16) for one (1) year and sixteen (16) for two (2) years. The chairman, vice chairman, and treasurer of the commission shall be members of the steering committee and, anything in this paragraph to the contrary notwithstanding, shall serve during their continuance in these offices. Vacancies in the steering committee shall not affect its authority to act, but the commission at its next regularly ensuing meeting following the occurrence of any vacancy shall fill it for the unexpired term. No person shall serve more than two (2) terms as a member of the steering committee; provided that service for a partial term of one (1) year or less shall not be counted toward the two-term limitation.

B. The commission may establish advisory and technical committees composed of state, local, and federal officials, and private persons to advise it with respect to any one (1) or more of its functions. Any advisory or technical committee may, on request of the states concerned, be established to consider any matter of special concern to two (2) or more of the party states.

C. The commission may establish such additional committees as its bylaws may provide.

ARTICLE VII.

Finance

A. The commission shall advise the Governor or designated officer or officers of each party state of its budget and estimated expenditures for such period as may be required by the laws of that party state. Each of the commission's budgets of estimated expenditures shall contain specific recommendations of the amount or amounts to be appropriated by each of the party states.

B. The total amount of appropriation requests under any budget shall be apportioned among the party states. In making such apportionment, the commission shall devise and employ a formula which takes equitable account of the populations and per capita income levels of the party states.

C. The commission shall not pledge the credit of any party states. The commission may meet any of its obligations in whole or in part with funds available to it pursuant to Article III-G of this compact, provided that the commission takes specific action setting aside such funds prior to incurring an obligation to be met in whole or in part in such manner. Except where the commission makes use of funds available to it pursuant to Article III-G thereof, the commission shall not incur any obligation prior to the allotment of funds by the party states adequate to meet the same.

D. The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be subject to the audit and accounting procedures established by its bylaws. However, all receipts and disbursements of funds handled by the commission shall be audited yearly by a qualified public accountant, and the report of the audit shall be included in and become part of the annual reports of the commission.

E. The accounts of the commission shall be open at any reasonable time for inspection by duly constituted officers of the party states and by any persons authorized by the commission.

F. Nothing contained herein shall be construed to prevent commission compliance with laws relating to audit or inspection of accounts by or on behalf of any government contributing to the support of the commission.

ARTICLE VIII.

Eligible Parties; Entry into and Withdrawal

A. This compact shall have as eligible parties all states, territories, and possessions of the United States, the District of Columbia, and the Commonwealth of Puerto Rico. In respect of any such jurisdiction not

having a Governor, the term "Governor," as used in this compact, shall mean the closest equivalent official of such jurisdiction.

B. Any state or other eligible jurisdiction may enter into this compact and it shall become binding thereon when it has adopted the same; provided that in order to enter into initial effect, adoption by at least ten (10) eligible party jurisdictions shall be required.

C. Adoption of the compact may be either by enactment thereof or by adherence thereto by the Governor; provided that in the absence of enactment, adherence by the Governor shall be sufficient to make his state a party only until December 31, 1967. During any period when a state is participating in this compact through gubernatorial action, the Governor shall appoint those persons who, in addition to himself, shall serve as the members of the commission from his state, and shall provide to the commission an equitable share of the financial support of the commission from any source available to him.

D. Except for a withdrawal effective on December 31, 1967, in accordance with paragraph C of this Article, any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until one (1) year after the Governor of the withdrawing state has given notice in writing of the withdrawal to the Governors of all other party states. No withdrawal shall affect any liability already incurred by or chargeable to a party state prior to the time of such withdrawal.

ARTICLE IX.

Construction and Severability

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any state or of the United States, or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as to the state affected as to all severable matters.

History. Acts 1965 (2nd Ex. Sess.), No. 22, § 1; 1967, No. 40, §§ 1, 2; A.S.A. 1947, § 80-4501.

6-4-202. Compact for Education Commissioners of Arkansas.

(a) The seven (7) members to represent the State of Arkansas on the Education Commission of the states authorized in Article III of the Compact for Education, § 6-4-201, shall be known and designated as the "Compact for Education Commissioners of Arkansas".

(b) The members of the commission shall consist of the following members:

(1) The Governor of the State of Arkansas, who shall serve as chair thereof;

(2) One (1) member of the House of Representatives to be designated by the Speaker of the House and one (1) member of the Senate of the State of Arkansas to be designated by the President of the Senate, each of whom shall serve until the next regular biennial session of the General Assembly at which their successors shall be designated in the same manner;

(3) The Commissioner of Education;

(4) One (1) member of the Arkansas Higher Education Coordinating Board, to be designated by the Governor, to serve a term of two (2) years; and

(5) Two (2) additional members, to be appointed by the Governor, who are residents of this state and who have demonstrated interest in public education. Such two (2) appointed members shall serve staggered terms of two (2) years.

(c) The Commissioner of Education shall serve *ex officio* as secretary of the members of the commission, and the members of the commission may elect additional officers as deemed appropriate.

(d) The Compact for Education Commissioners of Arkansas shall meet on the call of its chair or at the request in writing of the majority of its members.

(e) The members of the commission may consider any and all matters relating to public education policies and any matters relating to recommendations of the Education Commission of the States and the activities of the members in representing this state thereon.

(f) The members of the commission shall serve without pay, provided that they may receive expense reimbursement in accordance with § 25-16-901 et seq.

(g) In the event of the death or resignation of any member of the commission, his or her successor shall be chosen in the same manner as provided herein for his or her original designation or appointment.

(h) In the event the courts of this state may hold that the membership of any members on the commission is contrary to the laws of this state, the Governor may appoint successors for such members who shall be residents of this state and who have demonstrated interest in public education. Such successor members shall serve the same term as provided herein for the members they replace.

History. Acts 1965 (2nd Ex. Sess.), No. 22, § 2; 1967, No. 40, § 3; A.S.A. 1947, § 80-4502; Acts 1997, No. 250, § 13.

Publisher's Notes. The terms of the

two additional members of the Compact for Education Commissioners of Arkansas are arranged so that one term expires every year.

6-4-203. Filing of bylaws.

Pursuant to Article III-I of the Compact for Education, § 6-4-201, the Education Commission of the states shall file a copy of its bylaws and any amendment thereto with the Secretary of State, who shall file and retain the copy as a public document.

History. Acts 1965 (2nd Ex. Sess.), No. 22, § 3; 1967, No. 40, § 4; A.S.A. 1947, § 80-4503.

CHAPTER 5

**MISCELLANEOUS PROVISIONS RELATING TO
ELEMENTARY, SECONDARY, AND HIGHER
EDUCATION**

SUBCHAPTER.

1. **EARLY CHILDHOOD DEVELOPMENT PROJECTS.**
2. **HAZING.**
3. **EDUCATIONAL EXCELLENCE TRUST FUND.**
4. **HIGHER EDUCATION AWARENESS PROGRAM.**
5. **CIVIL WAR REENACTMENTS.**
6. **INTERVENTION AND PREVENTION GRANT PROGRAM FOR ARKANSAS SCHOOL CHILDREN. [REPEALED.]**
7. **ARKANSAS EVALUATION CENTER.**

A.C.R.C. Notes. References to "this chapter" in subchapters 1-4 may not apply to subchapters 5 and 6 which were en-

acted subsequently.

Cross References. Concealing guns or drugs in school property, § 6-21-608.

SUBCHAPTER 1 — EARLY CHILDHOOD DEVELOPMENT PROJECTS**SECTION.**

- 6-5-101. Authorization.
6-5-102. Project guidelines.

SECTION.

- 6-5-103. College role.
6-5-104. Funding.

6-5-101. Authorization.

(a) Any school district or any combination of school districts of this state is authorized to join with a state-supported junior college, college, or university, or any combination of state-supported junior colleges, colleges, or universities in this state and develop a pilot or demonstration project for early childhood development and teaching and to apply to the Department of Education for approval and funding of the project.

(b) Any project to be approved must be a program combining both childhood development for the children involved in the project and training for teachers in the area of early childhood development.

History. Acts 1969, No. 388, § 1; A.S.A. 1947, § 80-3345.

6-5-102. Project guidelines.

(a) The Department of Education shall develop guidelines to assist school districts and colleges and universities in developing projects to be submitted for approval and funding pursuant to this subchapter.

(b) These guidelines will include, but will not be restricted to, criteria for:

- (1) Instructional objectives;
- (2) Classroom characteristics;
- (3) Competence of the classroom workers;
- (4) Evaluation of the program;
- (5) Dissemination of program ideas and training procedures;
- (6) Reports of progress and findings; and
- (7) Age of children to be eligible for participation.

History. Acts 1969, No. 388, § 2; A.S.A. 1947, § 80-3346.

6-5-103. College role.

The Arkansas Higher Education Coordinating Board will be apprised of the role of the colleges in these projects and will advise the Department of Education with respect to the efficient coordination of the college portions of the program.

History. Acts 1969, No. 388, § 3; A.S.A. 1947, § 80-3347.

6-5-104. Funding.

After approval, a program shall then be funded out of the funds appropriated in this subchapter in an amount as shall be approved by the Department of Education in consultation with the Arkansas Higher Education Coordinating Board.

History. Acts 1969, No. 388, § 3; A.S.A. 1947, § 80-3347.

SUBCHAPTER 2 — HAZING

SECTION.

6-5-201. Definition.

6-5-202. Prohibitions.

SECTION.

6-5-203. Penalties.

6-5-204. Construction.

Cross References. Fraternities, § 6-18-601 et seq.

6-5-201. Definition.

(a) As used in this subchapter, "hazing" means:

(1) Any willful act on or off the property of any school, college, university, or other educational institution in Arkansas by one (1) student alone or acting with others which is directed against any other student and done for the purpose of intimidating the student attacked by threatening him or her with social or other ostracism or of submitting such student to ignominy, shame, or disgrace among his or her fellow students, and acts calculated to produce such results;

(2) The playing of abusive or truculent tricks on or off the property of any school, college, university, or other educational institution in Arkansas by one (1) student alone or acting with others, upon another student to frighten or scare him or her;

(3) Any willful act on or off the property of any school, college, university, or other educational institution in Arkansas by one (1) student alone or acting with others which is directed against any other student done for the purpose of humbling the pride, stifling the ambition, or impairing the courage of the student attacked or to discourage him or her from remaining in that school, college, university, or other educational institution, or reasonably to cause him or her to leave the institution rather than submit to such acts; or

(4) Any willful act on or off the property of any school, college, university, or other educational institution in Arkansas by one (1) student alone or acting with others in striking, beating, bruising, or maiming; or seriously offering, threatening, or attempting to strike, beat, bruise, or maim; or to do or seriously offer, threaten, or attempt to do physical violence to any student of any such educational institution; or any assault upon any such student made for the purpose of committing any of the acts, or producing any of the results, to such student as defined in this section.

(b) The term "hazing" as defined in this section does not include customary athletic events or similar contests or competitions and is limited to those actions taken and situations created in connection with initiation into or affiliation with any organization.

History. Acts 1983, No. 75, § 2; A.S.A. 1947, § 80-5502.

6-5-202. Prohibitions.

(a) No student of any school, college, university, or other educational institution in Arkansas shall engage in what is commonly known and recognized as hazing or encourage, aid, or assist any other student in the commission of this offense.

(b)(1) No person shall knowingly permit, encourage, aid, or assist any person in committing the offense of hazing, or willfully acquiesce in the commission of such offense, or fail to report promptly his or her knowledge or any reasonable information within his or her knowledge of the presence and practice of hazing in this state to an appropriate

administrative official of the school, college, university, or other educational institution in Arkansas.

(2) Any act of omission or commission shall be deemed hazing under the provisions of this subsection (b).

History. Acts 1983, No. 75, §§ 1, 3; A.S.A. 1947, §§ 80-5501, 80-5503.

6-5-203. Penalties.

(a) The offense of hazing is a Class B misdemeanor.

(b) Upon conviction of any student of the offense of hazing, he or she shall, in addition to any punishment imposed by the court, be expelled from the school, college, university, or other educational institution he or she is attending.

History. Acts 1983, No. 75, §§ 4, 5; A.S.A. 1947, §§ 80-5504, 80-5505.

6-5-204. Construction.

Nothing in this subchapter shall be construed as in any manner affecting or repealing any law of this state respecting any other criminal offense.

History. Acts 1983, No. 75, § 6; A.S.A. 1947, § 80-5506.

SUBCHAPTER 3 — EDUCATIONAL EXCELLENCE TRUST FUND

SECTION.

6-5-301. Creation — Funding.
6-5-302. Allocation and transfer of funds.
6-5-303 — 6-5-306. [Repealed.]
6-5-307. Classroom teacher salary requirement.

SECTION.

6-5-308. Legislative intent — Supplemental funding for public education.

A.C.R.C. Notes. References to “this subchapter” in §§ 6-5-301 and 6-5-302 may not apply to §§ 6-5-307 and 6-5-308 which were enacted subsequently.

Effective Dates. Acts 1991, No. 10, § 7: July 1, 1991. Emergency clause provided: “It is hereby found and determined by the Seventy-Eighth General Assembly that the provision of quality education to the students of secondary schools and Arkansas institutions of higher education is essential to the preservation of the public welfare; that the provisions of this act are necessary in meeting this essential need of providing salary increases for those certified personnel positions on the effective

date of this act; that a revision of state financial procedures is necessary to assure that the increased revenues to become available to the State in accordance with various tax increases enacted in this General Assembly are first made available to support the programs of educational opportunity improvement also enacted; and that delay past July 1, 1991 will cause a serious and critical delay in the initiation of the programs for improvement of the educational system of this state. Therefore, an emergency is declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full

force and effect from and after July 1, 1991."

Acts 1991, No. 401, § 19: July 1, 1991. Emergency clause provided: "It is hereby found and determined by the Seventy-Eighth General Assembly that the effectiveness of this act on July 1, 1991 is essential to the operation of the Arkansas Department of Education and the various school districts of this state; that the various changes reflected in this act require implementation on a day certain before the beginning of the upcoming school year; and that in the event of an extension of the Regular Session, the delay in the effective date of this act beyond July 1, 1991 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1991."

Acts 1991, No. 878, § 28: July 1, 1991. Emergency clause provided: "It is hereby found and determined by the Seventy-Eighth General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1991, is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Sessions, the delay in the effective date of this Act beyond July 1, 1991 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1991."

Acts 1991, No. 1036, § 5: July 1, 1991. Emergency clause provided: "It is hereby found and determined by the Seventy-Eighth General Assembly that the effectiveness of this Act on July 1, 1991 is essential to the operation of the Department of Education and the public schools of this state; that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1991 could work irreparable harm

upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1991."

Acts 1991, No. 1135, § 20: July 1, 1991. Emergency clause provided: "It is hereby found and determined by the Seventy-Eighth General Assembly that the distribution of general revenues and the creation of the various funds and fund accounts are essential to be in force at the beginning of the state fiscal year and that in the event that the General Assembly extends beyond the sixty day limit, the effective date of this act would not begin at that time creating confusion and not permitting the agencies to implement those programs as approved by the General Assembly. Therefore an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1991."

Acts 1993, No. 830, § 8: July 1, 1993. Emergency clause provided: "It is hereby found and determined by the Seventy-Ninth General Assembly meeting in Regular Session, that the provision of quality education to the students of secondary schools and Arkansas institutions of higher education is essential to the preservation of public welfare; that a continuation of state financial procedures relating to the Educational Excellence Trust Fund is necessary to assure that revenues are made available to support the programs of educational opportunity improvement; and that delay past July 1, 1993 will cause a serious and critical delay in the initiation of the programs for improvement of the educational system of this state. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the immediate preservation of the public peace, health, and safety shall be in full force and effect from and after July 1, 1993."

Acts 1995, No. 1172, § 8: July 1, 1995. Emergency clause provided: "It is hereby found and determined by the Eightieth General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two

(2) year period; that the effectiveness of this Act on July 1, 1995 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1995 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1995."

Acts 1997, No. 171, § 6: Feb. 14, 1997. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas, that the provisions of this Act are of critical importance to the stability of the educational programs funded from the Educational Excellence Trust Fund and the workforce development and training programs funded from the Workforce 2000 Development Fund, the same being an appropriate use of the state's resources. Therefore an emergency is declared to exist and this Act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 1997, No. 273, § 7: July 1, 1997. Emergency clause provided: "It is hereby found and determined by the Eightieth General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1997 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1997 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby de-

clared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1997."

Acts 1999, No. 1143, § 5: July 1, 1999. Emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly, that changes in fiscal laws for the 1999-01 Biennium have to take effect on July 1, 1999 and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1999 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1999."

Acts 1999, No. 1315, § 8: July 1, 1999. Emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly that the changes required by this act must take effect at the beginning of the state fiscal year and not to do so will disrupt the flow of funds for vocational education. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 1999."

Acts 2001, No. 558, § 2: July 1, 2001. Emergency clause provided: "It is hereby found and determined by the General Assembly, that changes in fiscal laws for the 2001-03 Biennium have to take effect on July 1, 2001 and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 2001 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 2001."

Acts 2001, No. 1456, § 9: July 1, 2001. Emergency clause provided: "It is found and determined by the General Assembly that educators are compensated on an annual basis beginning in July and ending in June. It is further determined that

the change in compensation practices embodied in this act must take place in the same time frame as normal compensation practices or confusion among school districts and educators would ensue. Therefore, an emergency is declared to exist and

this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 2001.”

Acts 2003, No. 1305, § 8: Jan. 1, 2004, by its own terms.

6-5-301. Creation — Funding.

(a)(1) There is hereby established on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a fund to be known as the “Educational Excellence Trust Fund”.

(2) For each of the state’s fiscal years, the Chief Fiscal Officer of the State shall determine as an annual allocation for this fund an amount based on the total net general revenues as enumerated in § 19-6-201(1) and (2), which were collected in the immediate past year, times a factor of 0.1414.

(b)(1) On the last day of each month of the respective fiscal year, the Chief Fiscal Officer of the State shall certify to the Treasurer of State an amount based on one-twelfth ($\frac{1}{12}$) of the annual allocation determined in subsection (a) of this section for transfer to the fund.

(2) The Treasurer of State shall make such transfer after making the deductions required from the net general revenues as set out in § 19-5-202(b)(2)(B)(i).

History. Acts 1991, No. 10, § 1; 1997, No. 171, § 1; 1999, No. 1315, § 1.

Cross References. Educational Excellence Trust Fund, § 19-5-942.

6-5-302. Allocation and transfer of funds.

From the moneys accruing to the Educational Excellence Trust Fund, the Treasurer of State on the last day of the month shall transfer to the various funds and fund accounts listed below, the amounts determined by applying each fund or fund account’s proportionate part of the total of all such allocations set forth in this section to the amount available for distribution as determined in § 6-5-301:

FISCAL YEAR ENDING

<u>Fund or Fund Accounts</u>	<u>June 30, 2002</u>	<u>June 30, 2003 & Thereafter</u>
Dept. of Education Public School Fund Account	\$161,935,727	\$164,138,382
Dept. of Workforce Education Public School Fund Account	9,518,065	10,032,555
Dept. of Education Fund Account	762,901	804,138

FISCAL YEAR ENDING

<u>Fund or Fund Accounts</u>	<u>June 30, 2002</u>	<u>June 30, 2003 & Thereafter</u>
Dept. of Workforce Education Fund Account	2,856,557	3,010,965
Higher Education Grants Fund Account	10,499,767	11,067,322
School for Math, Science, and Arts Fund	0	5,988,465
<u>Institutions of Higher Edu- cation:</u>		
Arkansas State University Fund	4,797,713	5,057,049
Arkansas Tech University Fund	1,608,226	1,695,157
Henderson State University Fund	1,663,634	1,753,560
Southern Arkansas University Fund	983,576	1,036,743
University of Arkansas Fund	11,905,301	12,548,830
University of Arkansas at Little Rock Fund	4,224,809	4,453,177
University of Arkansas Med. Center Fund	7,274,293	7,667,498
University of Arkansas Med. Center - Indg. Care	181,013	190,797
University of Arkansas at Mon- ticello Fund	848,858	894,742
University of Arkansas at Pine Bluff Fund	1,473,599	1,553,253
University of Central Arkansas Fund	3,661,359	3,859,270
Arkansas State University- Beebe Fund	1,144,646	1,206,518
East Arkansas Community Col- lege Fund	599,022	631,401
Garland County Community College Fund	895,921	944,349
Arkansas Northeastern College Fund	573,810	604,827
North Arkansas College Fund	353,775	372,898
Northwest Arkansas Commu- nity College Fund	791,763	834,561
Phillips Community College of Univ. of Ark. Fund	583,366	614,899

FISCAL YEAR ENDING

<u>Fund or Fund Accounts</u>	<u>June 30, 2002</u>	<u>June 30, 2003 & Thereafter</u>
Rich Mountain Community College Fund	158,120	166,667
SAU-Tech Fund	256,801	270,683
South Arkansas Community College Fund	409,688	431,833
University of Arkansas at Fort Smith Fund	2,437,691	2,569,458
TOTAL INSTITUTIONS OF HIGHER EDUCATION	\$ 46,826,984	\$ 49,358,170

History. Acts 1991, No. 10, § 2; 1991, No. 1135, § 17; 1993, No. 830, § 1; 1995, No. 1172, § 1; 1997, No. 273, § 1; 1999, No. 1143, § 1; 2001, No. 558, § 1; 2003, No. 1305, § 8.

A.C.R.C. Notes. Acts 2003 (1st Ex. Sess.) No. 55, § 27, changed the "Missis-

sippi County Community College Fund" to the "Arkansas Northeastern College Fund".

Cross References. Nonrecurring salary payments, § 6-20-412.

Effective Dates. Acts 2003, No. 1305, § 8: Jan. 1, 2004, by its own terms.

6-5-303 — 6-5-306. [Repealed.]

Publisher's Notes. These sections, concerning use of funds for salary increases, distribution to Minimum Foundation Program Aid, legislative intent, supplemental funding for public education, exemption from expenditure requirements, and school districts not qualifying, were repealed by Acts 1995, No. 1194, § 30. The sections were derived from:

6-5-303. Acts 1991, No. 10, § 3; 1991, No. 878, § 20; 1993, No. 397, § 1; No. 830, § 2.

6-5-304. Acts 1991, No. 10, § 3.

6-5-305. Acts 1991, No. 1036, § 1; 1993, No. 1226, § 1.

6-5-306. Acts 1991, No. 401, § 13.

6-5-307. Classroom teacher salary requirement.

(a) Any increase in Educational Excellence Trust Fund funds allocated for teacher salaries shall be used by school districts to provide salary increases for current certified personnel positions and for no other purpose, except that required social security and teacher retirement matching required to be paid by the school districts for certified personnel may be paid from the funds.

(b) Educational Excellence Trust Fund funds allocated for teacher salaries shall be disbursed by the Department of Education to school districts pursuant to the state foundation funding formula under § 6-20-2305.

(c) In determining whether a school district has had an increase in Educational Excellence Trust Fund funds allocated for teacher salaries, any annual increase in such trust funds must exceed the level of the highest year since 1991 to be classified as an increase.

(d) "Salary increase", as used in this section, shall not include increments for experience or advanced hours or degrees.

History. Acts 1995, No. 1172, § 2; 1997, No. 1324, § 1; 2001, No. 1456, § 7; 2005, No. 2121, § 20; 2005, No. 2165, § 1. **Amendments.** The 2005 amendment by No. 2121 substituted "shall be used ... except that" for "may be used to fund the required salary increase provided for in this subsection, 6-20-412, and 6-17-2101 et seq., and" in (a); and substituted "foundation funding formula under § 6-20-2305" for "equalization formula" in (b). The 2005 amendment by No. 2165 added (d).

6-5-308. Legislative intent — Supplemental funding for public education.

It is the intent of this subchapter to supplement, not to supplant, funding for public education in this state. Nothing herein shall be construed to reduce that portion of general revenue or growth revenues which would otherwise accrue to the Public School Fund. The moneys provided by this subchapter are intended to be in addition to those anticipated to be provided to fund public education for the children of this state at the same historical proportionate levels.

History. Acts 1997, No. 1324, § 2. **A.C.R.C. Notes.** References to "this subchapter" in §§ 6-5-301 and 6-5-302 may not apply to this section which was enacted subsequently.

SUBCHAPTER 4 — HIGHER EDUCATION AWARENESS PROGRAM

SECTION.
6-5-401. Title.
6-5-402. Legislative findings.

SECTION.
6-5-403. Scope of program.
6-5-404. Cooperation with program.

6-5-401. Title.

This subchapter shall be known as and may be cited as the "Higher Education Awareness Act of 1993".

History. Acts 1993, No. 1256, § 1.

6-5-402. Legislative findings.

The General Assembly hereby finds and determines the following:
(1) That the skills required for jobs and careers in the future demand increasing knowledge and training, and the continued development of the Arkansas economy depends on more of our citizens obtaining postsecondary education;
(2) That the course choices made as early as the ninth grade can affect the education options available to a student after high school;
(3) That many eighth graders and their parents or guardians are unfamiliar with the courses required to enter our state's colleges and universities or the options offered by our state's technical colleges and are unaware of the financial requirements or financial assistance available for postsecondary opportunities; and

(4) That one (1) of the education goals of Arkansas and the nation is to increase the number of young people entering postsecondary education.

History. Acts 1993, No. 1256, § 2.

6-5-403. Scope of program.

(a) The Arkansas Higher Education Coordinating Board is hereby directed to work with Arkansas public institutions of higher education, and those private institutions of higher education that wish to participate, to annually provide updated or additional information for the information packages provided to seventh-grade students and their parents or guardians on the options of postsecondary education available in Arkansas, the courses required to attend colleges and universities, and the financial requirements and assistance available for students pursuing additional education after high school.

(b) Sessions to discuss postsecondary options shall be held during the spring semester at a reasonable time at each of the state's public schools housing a seventh-grade class. The sessions should be scheduled at a time convenient to the school and the cooperating institutions of higher education. The students in the seventh grade, the school counselors, and the students' parents, guardians, or persons in loco parentis shall meet together in conference for the purpose of defining the students' educational objectives for the future and developing a course of study for grades eight through twelve (8-12).

(c) At the request of the parents, guardians, or persons in loco parentis, the school will schedule an individual conference to evaluate the student's past academic performance, to define the student's educational objectives for the future, and to develop a course of study for the student in grades eight through twelve (8-12).

(d)(1) The board, working in conjunction with state-supported institutions of higher education, private institutions of higher education that wish to participate, the Department of Education, and the Department of Workforce Education shall annually compile information for Arkansas high school students on:

(A) Academic scholarships for freshmen entering institutions of higher education in the state; and

(B) State-funded programs that provide opportunities for developing technical job skills and apprenticeships.

(2)(A) The Department of Education shall provide the information annually to all public high school counselors in the state.

(B) Each public high school counselor shall annually provide the information received from the Department of Education to students in the public high school where he or she is employed.

History. Acts 1993, No. 1256, § 3; **Amendments.** The 2007 amendment 1999, No. 478, § 2; Acts 2007, No. 474, added (d).
§ 1.

6-5-404. Cooperation with program.

(a) The State Board of Education, the Department of Education, and the public schools of Arkansas shall cooperate with the Arkansas Higher Education Coordinating Board, the Department of Higher Education, and the institutions of higher education in providing the information and shall assist as requested by the department.

(b) Individual schools shall make special efforts to ensure that as many students and parents or guardians as possible are made aware of the opportunity to receive information, are urged to attend the counseling sessions, and are in receipt of the information packages.

(c) Businesses and industries in Arkansas are hereby requested to provide the opportunity to their employees with children in the eighth grade in public schools in Arkansas to attend the counseling sessions and to cooperate with institutions of higher education in presenting at the work site small group and one-on-one counseling on courses that are required for postsecondary education and postsecondary options and financial requirements and assistance available for postsecondary education.

History. Acts 1993, No. 1256, § 3.

SUBCHAPTER 5 — CIVIL WAR REENACTMENTS**SECTION.**

6-5-501. Definitions.

6-5-502. Weapons.

A.C.R.C. Notes. References to “this chapter” in subchapters 1-4 may not apply to this subchapter which was enacted subsequently.

Cross References. Concealing guns or drugs in school property, § 6-21-608.

6-5-501. Definitions.

As used in this subchapter:

- (1) “Civil War” means the 1861-1865 American Civil War;
- (2) “Civil War-era weapon” means an instrument used in offensive or defensive combat during the Civil War or a modern reproduction;
- (3) “Civil War reenactor” means a member of an organized group acting out historical events from the Civil War and carrying an actual weapon from that era or a reproduction;
- (4) “School official” means a public school district superintendent or principal, a private school superintendent or principal, a president, chancellor, or dean of a publicly supported institution of higher education, or a president or dean of a private institution of higher education; and

(5) "School property" means any building, bus, campus, ground, recreational area, athletic field, or other area or structure owned or in the charge of a public school district, a private school, a publicly supported institution of higher education, or a private institution of higher education.

History. Acts 1995, No. 130, § 1.

6-5-502. Weapons.

A person in this state who is a Civil War reenactor may carry a Civil War-era weapon on school property for educational purposes so long as a school official grants approval in advance and, if the weapon is a firearm, the firearm is unloaded.

History. Acts 1995, No. 130, § 2.

SUBCHAPTER 6 — INTERVENTION AND PREVENTION GRANT PROGRAM FOR ARKANSAS SCHOOL CHILDREN

SECTION.

6-5-601 — 6-5-608. [Repealed.]

6-5-601 — 6-5-608. [Repealed.]

Publisher's Notes. This subchapter was repealed by Acts 2001, No. 537, § 1. The subchapter was derived from the following sources:

6-5-601. Acts 1995, No. 712, § 1.

6-5-602. Acts 1995, No. 712, § 1.

6-5-603. Acts 1995, No. 712, § 6.

6-5-604. Acts 1995, No. 712, § 7.

6-5-605. Acts 1995, No. 712, § 2.

6-5-606. Acts 1995, No. 712, § 3.

6-5-607. Acts 1995, No. 712, § 5.

6-5-608. Acts 1995, No. 712, § 8; 1997, No. 112, § 1.

SUBCHAPTER 7 — ARKANSAS EVALUATION CENTER

SECTION.

6-5-701. Legislative findings.

6-5-702. The Arkansas Evaluation Center.

SECTION.

6-5-703. Duties of the Arkansas Evaluation Center.

6-5-701. Legislative findings.

The General Assembly finds:

(1) Effective evaluation serves to enhance quality in existing services and programs by:

(A) Ensuring accountability for funds and services used;

(B) Raising the bar for standards and expectations; and

(C) Increasing the use of data to inform program operation and decision making;

(2) The general focus of effective evaluation is on programs and services, but effective evaluation can be applied also to individuals, organizations, communities, and societies or cultures;

(3) In a state where resources are often scarce, effective and credible evaluation is the heart of a healthy system and is critical to ensure that necessary programs and services are delivered and ineffective programs and practices eliminated; and

(4) To help groups accomplish their objectives, empowerment evaluation and other collaborative forms of evaluation are particularly useful in collaborative endeavors that require complex systems and diverse groups.

History. Acts 2007, No. 1582, § 1.

6-5-702. The Arkansas Evaluation Center.

(a) There is established at the University of Arkansas at Pine Bluff the Arkansas Evaluation Center to build evaluation capacity in the State of Arkansas by:

(1) Assisting nonprofit corporations in their reporting processes to their boards, funding agencies, the government, and the public;

(2) Expanding the service of evaluation research to nonprofit corporations in the Arkansas Delta through the provision of data that helps to account for resources and through a service delivery designed to advance the quality of life in the Arkansas Delta;

(3) Assisting the General Assembly by evaluating the impact of potential and existing legislation; and

(4) Fulfilling a commitment to fiscal and philosophical accountability with the people of Arkansas by empowering the University of Arkansas at Pine Bluff to provide nationally recognized evaluation training.

(b) The center shall be housed at the University of Arkansas at Pine Bluff.

History. Acts 2007, No. 1582, § 1.

6-5-703. Duties of the Arkansas Evaluation Center.

(a) The Arkansas Evaluation Center shall:

(1) Contribute to the University of Arkansas at Pine Bluff by:

(A) Attracting students to existing courses;

(B) Providing new online and distance learning courses; and

(C) Serving as a catalyst to stimulate university faculty to conduct evaluation and research;

(2) Provide academic training that consists of a variety of modalities, including courses, virtual classrooms, practicum, workshops, and invited speakers;

(3) Assist the University of Arkansas at Pine Bluff in offering a series of evaluation-related courses, including qualitative or ethnographic approaches, statistics, research design, evaluation approaches and methods, and politics of evaluation, that will be provided primarily through the University of Arkansas at Pine Bluff's Education Department; and

(4) Assist the University of Arkansas at Pine Bluff in developing and implementing the Certificate Program in Effective Evaluation and the Masters Degree Program in Effective Evaluation.

(b) The center shall provide training on evaluation to a cadre of professionals interested in pursuing study in evaluation through course work, evaluation conference workshops, and invited lectures delivered by recognized experts.

History. Acts 2007, No. 1582, § 1.

CHAPTERS 6-9

[Reserved]

SUBTITLE 2. ELEMENTARY AND SECONDARY EDUCATION GENERALLY

CHAPTER 10

GENERAL PROVISIONS

SECTION.

- 6-10-101. Title.
- 6-10-102. Penalty.
- 6-10-103. Prosecutions and fines.
- 6-10-104. Duty of prosecuting attorney.
- 6-10-105. [Repealed.]
- 6-10-106. Uniform dates for beginning and end of school year.
- 6-10-107. Notice of beginning of school term.
- 6-10-108. Twelve-month school year.
- 6-10-109. Special program for training parents of students.
- 6-10-110. Fire marshal program.
- 6-10-111. Equity Assistance Center.
- 6-10-112. Rent on Department of Education buildings.

SECTION.

- 6-10-113. Eye protection.
- 6-10-114. Unlawful to discriminate — Penalties.
- 6-10-115. Period of silence.
- 6-10-116. [Repealed.]
- 6-10-117. Four-day school week.
- 6-10-118. Information about the availability of ARKids First.
- 6-10-119. Medicaid billing.
- 6-10-120. Adequate and equitable public education system.
- 6-10-121. Tornado safety drills.
- 6-10-122. Automated external defibrillators required.

A.C.R.C. Notes. Acts 1993, No. 1288, § 1, provided: "It is the purpose of the General Assembly through this Act to focus public attention on the problems facing those Arkansas students not being educated under the current public school system and on the need for alternative learning environments to avoid the consequences to all Arkansans that will result if nothing is done to better prepare these students. The General Assembly believes that many of the problems can be conquered. The key is recognizing and identifying how the system is failing a child, early enough to provide meaningful intervention, and then adapting or altering the system to meet a child's educational needs. Arkansas schools exist solely for the benefit of the children, and the schools must adapt to the children's educational needs. The Arkansas Pygmalion Commission on Nontraditional Education will act to focus public attention, as a clearinghouse for information regarding alternative learning environments, and to ensure that needed changes are made in curriculum, instructional approaches, school cli-

mate, and organization to improve educational outcomes for at-risk students."

Acts 1993, No. 1288, § 2, provided: "(a) The Arkansas Pygmalion Commission on Nontraditional Education is hereby established for purposes of, including but not limited to the following:

"(1) Identifying and developing additional funding bases, including such non-traditional sources to use in implementing intervention services for students as private funds and grants, federal education funds and grants, and sale of merchandise and services generated by alternative education programs, that can be deployed in meeting the educational needs of all Arkansas children;

"(2) Conducting a study to determine the cost of various service models and the relative cost-effectiveness of each;

"(3) Identifying, in conjunction with school administrators responsible for alternative learning environments, factors to consider in determining the placement of students in alternative learning environments, including but not limited to the following:

"(A) Standardized test scores or assessment portfolios which indicate that a student is nine (9) months or more behind grade level;

"(B) Being one (1) year or more behind grade level peers in accumulating credits for graduation;

"(C) Retained one (1) or more times;

"(D) Recurring absences;

"(E) Personal or family problems or situations that have negatively affected ability to function in school;

"(F) Referrals for special education in which the student is found not eligible for special education;

"(G) Suspension or expulsion within the previous or current school semester;

"(4) Forming guidelines whereby the public schools and other agencies work collectively to implement a program for Arkansas children in kindergarten through grade twelve (K-12), in both general education and vocational education;

"(5) Collecting and compiling research, information, and data regarding alternative and nontraditional methods for meeting the educational needs of all Arkansas children and disseminating it to the public schools; and

"(6) Recommending the implementation of both in-service and university level courses designed to enhance the ability of a teacher or an administrator to develop interventions that will meet the needs of students identified for placement in an alternative or nontraditional learning environment.

"(b) The Commission shall utilize the Proposed Arkansas Department of Education Rules and Regulations for Alternative Learning Environments, dated January 13, 1993."

Acts 1993, No. 1288, § 3, as amended by Acts 1995, No. 596, § 1, and by Acts 1997, No. 112, § 30, provided: "Section 3.

(a) The Arkansas Pygmalion Commission on Nontraditional Education shall be composed of eighteen (18) members to be appointed in the manner and to represent various interests as follows:

"(1) One (1) member representing classroom teachers to be recommended by the Arkansas Education Association and appointed by the Governor;

"(2) One (1) member representing school district superintendents to be recommended by the Arkansas Association of

Education Administrators and appointed by the Governor;

"(3) One (1) member representing local school boards to be recommended by the Arkansas School Boards Association and appointed by the Governor;

"(4) Two (2) members representing school principals with alternative education experience to be recommended by the Arkansas Association of Education Administrators and appointed by the Governor;

"(5) One (1) member representing the Department of Health and appointed by the Governor;

"(6) One (1) member representing the Department of Human Services and appointed by the Governor;

"(7) One (1) member representing the General Education Division of the Department of Education and appointed by the Governor;

"(8) One (1) member representing the Vocational and Technical Education Division of the Department of Education and appointed by the Governor;

"(9) One (1) member representing the Department of Higher Education and appointed by the Governor;

"(10) One (1) member of the House Interim Committee on Education or a House member of the Joint Committee on Children and Youth to be appointed by the Speaker of the House;

"(11) One (1) member of the Senate Interim Committee on Education or a Senate member of the Joint Committee on Children and Youth to be appointed by the President Pro Tempore of the Senate;

"(12) One (1) member representing the judicial system to be appointed by the Governor;

"(13) One (1) member representing students with learning disabilities or Attention Deficit Disorder to be appointed by the Governor;

"(14) Two (2) members representing physicians and psychologists who specialize in treating children and adolescents to be recommended by the Chief of Staff of Arkansas Children's Hospital and appointed by the Governor;

"(15) One (1) member representing parents to be recommended by the Arkansas Congress of Parents and Teachers Association and appointed by the Governor; and

"(16) One (1) member at-large to be appointed by the Governor.

"(b) The commission shall expire on June 30, 1999, unless the commission is continued by further act of the Arkansas General Assembly."

Acts 1993, No. 1288, § 3, as amended by Acts 1995, No. 596, § 1, and by Acts 1997, No. 312, § 18, provided: "(3)(a) The Arkansas Pygmalion Commission on Non-traditional Education shall be composed of seventeen (17) members to be appointed in the manner and to represent various interests as follows:

"(1) One (1) member representing classroom teachers to be recommended by the Arkansas Education Association and appointed by the Governor;

"(2) One (1) member representing school district superintendents to be recommended by the Arkansas Association of Education Administrators and appointed by the Governor;

"(3) One (1) member representing local school boards to be recommended by the Arkansas School Boards Association and appointed by the Governor;

"(4) Two (2) members representing school principals with alternative education experience to be recommended by the Arkansas Association of Education Administrators and appointed by the Governor;

"(5) One (1) member representing the Department of Health and appointed by the Governor;

"(6) One (1) member representing the Department of Human Services and appointed by the Governor;

"(7) One (1) member representing the General Education Division of the Department of Education and appointed by the Governor;

"(8) One (1) member representing the Vocational and Technical Education Division of the Department of Education and appointed by the Governor;

"(9) One (1) member representing the Department of Higher Education and appointed by the Governor;

"(10) One (1) member of the Senate Interim Committee on Education or the Senate Interim Committee on Children and Youth to be appointed by the President Pro Tempore of the Senate;

"(11) One (1) member representing the judicial system to be appointed by the Governor;

"(12) One (1) member representing students with learning disabilities or Attention Deficit Disorder to be appointed by the Governor;

"(13) Two (2) members representing physicians and psychologists who specialize in treating children and adolescents to be recommended by the Chief of Staff of Arkansas Children's Hospital and appointed by the Governor;

"(14) One (1) member representing parents to be recommended by the Arkansas Congress of Parents and Teachers Association and appointed by the Governor; and

"(15) One (1) member at-large to be appointed by the Governor.

"(b) The commission shall expire on June 30, 1999, unless the commission is continued by further act of the Arkansas General Assembly."

Acts 1993, No. 1288, § 4, as amended by Acts 1995, No. 596, § 2, and by Acts 1997, No. 312, § 19, provided: "(a) The commission shall select one of its members to serve as chairman.

"(b) The Director of the General Education Division shall serve as a disbursing officer of any funds received by the commission.

"(c) By July 1, 1996, and each year thereafter until the commission expires, the commission shall submit a report containing recommendations for alternative and nontraditional methods for meeting the educational needs of all Arkansas children and for funding these recommendations, to the Governor, the Senate and House Interim Committees on Education, the Senate Interim Committee on Children and Youth, and the Department of Education."

Acts 1993, No. 1288, § 5, provided: "(a) The following state agencies and constitutional officers shall contribute staff time to work for the Arkansas Pygmalion Commission on Nontraditional Education:

"(1) The General Education Division of the Department of Education;

"(2) The Vocational and Technical Education Division of the Department of Education;

"(3) The Department of Health;

"(4) The Department of Human Services;

"(5) The Administrative Office of the Courts; and

"(6) The Office of the Governor.

"(b) The members of the commission shall work cooperatively with the various agencies and offices in determining how the work of the commission can be scheduled to accommodate both the regular agency duties of staff and the work of the commission."

Acts 1993, No. 1288, § 6, as amended by Acts 1997, No. 112, § 31, provided: "(a) Members of the Arkansas Pygmalion Commission on Nontraditional Education shall serve without pay, but the commission may, if sufficient funds are available, reimburse non-legislative and non-state employee members for actual and necessary expenses incurred in the performance of their duties. Legislative members of the commission shall receive, in lieu of reimbursement for expenses, the same per diem rate as members of the General Assembly attending meetings of the House and Senate Interim Committees on Education and shall be paid from funds appropriated for that purpose. Expenses of state employees serving on the commission shall be reimbursed from funds appropriated to that agency for such purposes."

"(b) The commission is hereby authorized to accept gifts, grants, and donations from private sources, from municipal and county governments, from the state, and from the federal government to be used for the purposes of this Act."

Acts 1993, No. 1288, § 6, as amended by Acts 1997, No. 250, § 251, provided: "(a) Members of the Arkansas Pygmalion Commission on Nontraditional Education shall serve without pay, but the commission may, if sufficient funds are available, reimburse non-legislative and non-state employee members for expenses in accordance with Arkansas Code 25-16-901 et seq. Legislative members of the commission shall receive, in lieu of reimbursement for expenses, the same per diem rate as members of the General Assembly attending meetings of the House and Senate Interim Committees on Education and shall be paid from funds appropriated for that purpose. Expenses of state employees serving on the commission shall be reimbursed from funds appropriated to that agency for such purposes."

"(b) The commission is hereby authorized to accept gifts, grants, and donations from private sources, from municipal and county governments, from the state, and

from the federal government to be used for the purposes of this Act."

Cross References. Office for the education of gifted and talented children, § 6-42-101 et seq.

Preambles. Acts 1959, No. 61 contained a preamble which read: "Whereas, there have been many disastrous and costly school fires which have occurred with startling frequency throughout the United States in recent years that have cost the lives of numerous school children, and

"Whereas, a number of school districts in this State have established Junior Fire Marshal Programs for the purpose of education and training in fire prevention and methods of evacuation in case of fire emergencies, and

"Whereas, the recent school fire in Chicago, Illinois, which claimed the lives of ninety (90) school children, demonstrates the compelling need for constant training and preparation for the prevention of fires and of methods of coping with fire emergencies, and

"Whereas, it is believed that an immediate program should be established in the public schools of this State for fire prevention training,

"Now, therefore...."

Effective Dates. Acts 1931, No. 169, § 198: approved Mar. 25, 1931. Emergency clause provided: "It is found as a fact that the advent of the automobile, and the great improvement in the roads of the State have worked great changes in the system of administering the public schools of the State, and there is occasion to change the boundaries of many such districts before the end of the current school term, to relieve many of them of pressing indebtedness, to immediately administer to the health of many pupils in the schools, and to distribute State Funds to many of the schools in the near future to prevent some of them from having to close for the lack of funds; therefore, it is necessary that this act take immediate effect for the preservation of public peace, health, and safety; therefore, an emergency is declared and this act shall take effect and be in force immediately after its passage."

Acts 1959, No. 61, § 4: Feb. 20, 1959. Emergency clause provided: "The General Assembly does hereby determine that the constant threat of disastrous school fires

poses a menace to the lives and safety of thousands of school children of this State; that many schools of this State are operating school facilities that pose a constant fire hazard; that immediate action is necessary to detect and correct such fire hazards; that constant patrolling of school facilities is necessary to reduce fire hazards and to detect fires that have commenced; and, that only by the immediate passage of this Act may said situation be corrected. Therefore, an emergency is hereby declared to exist and this Act being necessary for the preservation of the public peace, health and safety, shall be in full force and effect from and after its passage and approval."

Acts 1965, No. 48, § 4: effective at beginning of 1965-66 school year.

Acts 1969, No. 655, § 43: became law without Governor's signature, May 29, 1969. Emergency clause provided: "It is hereby found and determined that the Sixty-seventh General Assembly has, by a vote of two-thirds of the members elected to both Houses, voted to extend the regular session of the Sixty-seventh General Assembly, as authorized in the Constitution; that under the provisions of Amendment 7 to the Constitution, enactments of the General Assembly that do not have an emergency clause do not become effective until ninety (90) days after the date of final adjournment of the General Assembly; that the extended session of the General Assembly may not adjourn in time for this Act to take effect prior to July 1, 1969, thereby depriving the agency for which funds are appropriated herein of necessary operating funds to commence the next fiscal biennium; and in order that the appropriations made herein may be available on July 1, 1969, the General Assembly hereby determines that the immediate passage of this Act is necessary for the maintenance and operation of the essential governmental services. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety, shall be in full force and effect from and after its passage and approval, provided that the appropriation authorized herein shall not be available until July 1, 1969."

Acts 1989, No. 461, § 4: Mar. 10, 1989. Emergency clause provided: "It is hereby found and determined by the Seventy-

Seventh General Assembly that due to an outbreak of influenza several school districts may need the benefit of the provisions of this Act in the 1988-89 school year. Therefore, an emergency is hereby declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall be in full force and effect from and after its passage and approval."

Acts 1995, No. 1226, § 8: July 1, 1995. Emergency clause provided: "It is hereby found and determined by the Eightieth General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1995 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1995 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1995."

Acts 1997, No. 112, § 40: Feb. 7, 1997. Emergency clause provided: "It is hereby found and determined by the General Assembly that Act 10 of the First Extraordinary Session of 1995 abolished the Joint Interim Committee on Education and in its place established the House Interim Committee and Senate Interim Committee on Education; that various sections of the Arkansas Code refer to the Joint Interim Committee on Education and should be corrected to refer to the House and Senate Interim Committees on Education; that this act so provides; and that this act should go into effect immediately in order to make the laws compatible as soon as possible. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If

the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 1999, No. 1078, § 92: July 1, 2000.

Acts 2001, No. 1036, § 5: Mar. 22, 2001. Emergency clause provided: "It is found and determined by the General Assembly that Act 1078 of 1999 created confusion regarding the powers and duties of county boards of education; and the confusion has made it difficult for existing county boards of education to provide essential services to public schools in the state. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 2005, No. 1527, § 2: Apr. 5, 2005. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that some school districts are underperforming in the area of direct service Medicaid billing; that the revenue derived from payment for Medicaid services provided in the schools enables school districts to continue to provide such services in an effective and timely manner; and that this act is immediately necessary because any delay in the effective date of this act would work irreparable harm on the proper administration and provision of Medicaid services to Arkansas school children, thus endangering the learning opportunities for children in need of such services. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2005, No. 2190, § 1: July 1, 2006, by its own terms.

Acts 2005, No. 2190, § 24: Apr. 13, 2005. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the services of the county boards of education are no longer needed by the school districts; that there will be no funding available for the operation of the county boards of education; and that this act is immediately necessary because county boards of education need sufficient authority to transfer functions, duties, and records prior the end of the fiscal year. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2006 (1st Ex. Sess.), No. 19, § 10: Apr. 11, 2006. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the Arkansas Supreme Court declared the public school funding system to be inadequate and that public schools are operating under a constitutional infirmity which must be corrected immediately; that to correct the constitutional infirmity and to ensure adequate funding for public education, the General Assembly must revise the public school funding formula, revise laws regarding public school facilities, provide funding for retirement increases and limit additional increases; and enact other necessary reform measures; and that this act is immediately necessary to ensure that reform measures are available to public schools for the 2005-2006 and 2006-2007 school years. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

RESEARCH REFERENCES

A.L.R. Tort liability of public schools educational malpractice. 1 A.L.R.4th and institutions of higher learning for 1139.

6-10-101. Title.

This act shall be known as the “School Law”.

History. Acts 1931, No. 169, § 1; Pope’s Dig., § 11440; A.S.A. 1947, § 80-101.

Meaning of “this act”. Meaning of “this act”. Acts 1931, No. 169, codified as §§ 6-10-101 — 6-10-104, 6-10-107, 6-11-101 — 6-11-105, 6-11-106 [repealed], 6-11-107, 6-11-110, 6-11-111, 6-11-117, 6-12-109 [repealed], 6-12-206 [repealed], 6-13-101 — 6-13-104, 6-13-619, 6-13-620, 6-14-104 [repealed], 6-14-118, 6-16-103 — 6-16-105, 6-16-107, 6-17-101, 6-17-104, 6-17-105 [re-

pealed], 6-17-401, 6-17-405 [repealed], 6-18-217, 6-18-219, 6-18-501, 6-18-507, 6-18-701, 6-19-102, 6-20-202 — 204, 6-20-208 [repealed], 6-20-215 — 6-20-217, 6-20-220 [repealed], 6-20-221, 6-20-222, 6-20-403, 6-20-408 [repealed], 6-20-1201, 6-20-1204 — 6-20-1215, 6-21-101, 6-21-602 [repealed], 6-21-604 — 6-21-606, 6-51-211 — 6-51-215, 26-80-101, 26-80-102, 26-80-104.

CASE NOTES

Cited: Goodwin v. Cross County School Dist., 394 F. Supp. 417 (E.D. Ark. 1973);

Cade v. State, 185 Ark. 1150, 51 S.W.2d 857 (1932).

6-10-102. Penalty.

Any officer or employee of the State Board of Education or school district board of directors who shall willfully fail or refuse to comply with any provisions of the School Law for which no punishment is otherwise provided by law shall be deemed guilty of a violation and shall be fined in any sum not less than ten dollars (\$10.00) nor more than five hundred dollars (\$500).

History. Acts 1931, No. 169, § 197; Pope’s Dig., §§ 3598, 11638; A.S.A. 1947, § 6-10-101; Acts 1999, No. 1078, § 1; 2001, No. 1036, § 1; 2005, No. 1994, § 59; 2005, No. 2190, § 1.

Publisher’s Notes. As to the codification of the School Law, see the “Meaning of ‘this act’” note at § 6-10-101.

Amendments. The 2005 amendment

by No. 1944 substituted “violation” for “misdemeanor.”

The 2005 amendment by No. 2190 deleted “county board of education” after “State Board of Education.”

Effective Dates. Acts 2005, No. 2190, § 1: amendment effective by its own terms July 1, 2006.

RESEARCH REFERENCES

U. Ark. Little Rock L. Rev. Survey of Legislation, 2001 Arkansas General As-

sembly, Education Law, 24 U. Ark. Little Rock L. Rev. 453.

6-10-103. Prosecutions and fines.

(a) Prosecutions under this act shall be brought in the name of the State of Arkansas before any court having competent jurisdiction.

(b) Any fine collected shall be paid over to the county treasurer and be credited to the general school fund of the respective school district.

(c) No bond for costs shall be required by any court or officer in prosecutions under this act.

History. Acts 1931, No. 169, § 161; Pope's Dig., §§ 3587, 11603; A.S.A. 1947, § 80-1513; Acts 1999, No. 1078, § 2.
Effective Dates. Acts 1999, No. 1078, § 92: July 1, 2000.

Meaning of "this act". See note to § 6-10-101.

6-10-104. Duty of prosecuting attorney.

(a) It shall be the duty of the prosecuting attorneys of the State of Arkansas or their deputies in any county to prosecute the violators of this act as in the case of any other misdemeanor.

(b) The prosecuting attorney of each judicial district shall, upon being satisfied that any violation of the school laws of this state has been committed by any officer or person in any county of his or her district, which renders that officer or person so offending liable to any fine, pain, penalty, or forfeiture for damage, shall, without delay, institute in any court of competent jurisdiction such proceedings as are necessary to bring the offender to trial and secure to the county, school district, or person so damaged by the violation the benefits and reliefs to which each or any of them may be entitled.

(c) For such services the prosecuting attorney shall be allowed the same compensation as he is allowed in cases of misdemeanor, which shall be assessed against the offender as cost.

History. Acts 1931, No. 169, §§ 162, 182; Pope's Dig., §§ 3588, 3596, 11604, 11624; A.S.A. 1947, §§ 80-1514, 80-1908.
Meaning of "this act". See note to § 6-10-101.

6-10-105. [Repealed.]

Publisher's Notes. This section, concerning organizational interference with the public schools, was repealed by Acts 1989, No. 950, § 1. The section was derived from Acts 1959, No. 225, §§ 1-5; A.S.A. 1947, §§ 80-1910 — 80-1914.

6-10-106. Uniform dates for beginning and end of school year.

(a)(1) In each school year, the first day of the school year for student attendance in the public elementary and secondary schools of the State of Arkansas shall begin no earlier than August 19 and no later than August 26. If, however, August 18 falls on a Monday, school may begin on that date. The date for beginning the school year shall be determined by the board of directors of the school district. Labor Day shall be

celebrated as a school holiday in all the school districts of the state, and school shall not be held on that date.

(2) The Department of Education may grant a school district a waiver to begin school on an earlier or later date if the department determines that there exists a material and substantial reason for the school district to begin on an earlier or later date due to very exceptional or emergency circumstances such as a contagious disease outbreak, inclement weather, or other acts of God.

(b) Contracts of employment for certified and noncertified employees of school districts may require school district employees to begin performance under their contract of employment prior to the first day of student attendance.

(c) If the school year in any school district extends beyond the date observed as Memorial Day, such date shall be a holiday in the school district. Provided, upon approval of the department, this date may be used as a make-up day in any school district which has unavoidably lost more than five (5) scheduled days of student attendance during the course of the school year due to contagious disease outbreaks, inclement weather, or other acts of God.

(d) No other waiver from the requirements of this section shall be granted.

History. Acts 1983 (Ex. Sess.), No. 6, §§ 1, 2; A.S.A. 1947, §§ 80-1506.1, 80-1506.2; Acts 1989, No. 461, § 1; 1993, No. 103, § 1.

Publisher's Notes. Acts 1989, No. 461, § 1, provided, in part, that this act would be applicable "beginning with the 1989-90 school year and thereafter."

6-10-107. Notice of beginning of school term.

At least ten (10) days before the beginning of the session of school, it shall be the duty of all school district boards of directors to provide ample means of publicity, by posting or printing notices or by public announcement, as to the date on which any session of school shall begin. The notices so posted or printed shall give in substance the provisions of this act concerning school attendance.

History. Acts 1931, No. 169, § 154; Pope's Dig., §§ 3580, 11596; A.S.A. 1947, § 80-1506.

Cross References. School attendance, § 6-18-201 et seq.

Meaning of "this act". See note to § 6-10-101.

6-10-108. Twelve-month school year.

(a) It is found and determined by the General Assembly that public school facilities in the state are now effectively utilized only nine (9) or ten (10) months each year and that such facilities could be more efficiently utilized and educational opportunities in the various school districts could be enhanced by the establishment and operation of educational programs on a twelve (12) month per year basis. It is therefore the intent and purpose of this section to authorize public

schools to initiate and maintain public school educational programs on a twelve-month basis.

(b) As used in this section, unless the context otherwise requires, “twelve-month year-round educational program” means an educational program in which all students attend school no fewer than the number of days required by the Arkansas Standards for Accreditation between July 1 and June 30 of each school year and in which no vacation, including summer, lasts more than six (6) weeks.

(c) The board of directors of any school district is authorized to initiate and maintain a twelve-month year-round educational program in any or all of the public schools in the school district. However, any school district which does not elect to operate on a twelve-month basis must start school in accordance with the provisions of § 6-10-106.

(d)(1) The State Board of Education is authorized to establish appropriate standards, guidelines, rules, and regulations for the determination of average daily membership of school districts and for the distribution of state foundation funding and other forms of state aid and financial assistance to each local school district that elects to operate the public schools of the school district on a twelve-month basis, in order to provide the school district with an equitable share of the state foundation funds designated to equate a twelve-month school operation by the school district to the educational opportunities provided by a school district offering nine (9) months of public school instruction.

(2) However, the school district shall not receive any more state foundation funding for offering twelve (12) months of public school instruction than it would have received for offering nine (9) months of public school instruction.

History. Acts 1985, No. 178, §§ 1-3; substituted “foundation funding” for A.S.A. 1947, §§ 80-1572 — 80-1574; Acts 1993, No. 294, § 3; 1993, No. 446, § 1; 1999, No. 391, § 1; 2005, No. 2121, § 1. “equalization aid” in (d)(1) and for “financial aid” in (d)(2); and substituted “state foundation” for “aid” in (d)(1).

Amendments. The 2005 amendment

6-10-109. Special program for training parents of students.

(a) Local matching funds shall be required for the Parents As Teachers program.

(b)(1) Only public school districts or education service cooperatives established under § 6-13-1001 et seq. are eligible for grants to operate Parents As Teachers programs.

(2) Grantees may subcontract with other agencies for operation of Parents As Teachers programs.

(c) No school district nor any parent or guardian shall be required to participate in the Parents As Teachers program.

History. Acts 1983 (Ex. Sess.) No. 37, 3392.2; Acts 1995, No. 1226, § 2; 1999, §§ 1-3; A.S.A. 1947, §§ 80-3392 — 80- No. 100, § 1; 2007, No. 617, § 2.

Amendments. The 2007 amendment deleted “under Act 103 of the Extraordinary Session of 1983 [repealed] or” following “established” in (b)(1).

6-10-110. Fire marshal program.

(a) The Department of Education is authorized and directed to cooperate with and assist local school districts in this state in the establishment of an Arkansas school fire marshal program.

(b) Such program shall include, but shall not be limited to, the following:

(1) A periodic review and inspection of all school buildings and facilities for fire and other hazards;

(2) Cooperation with local fire departments and other organizations and persons in making building inspections, suggesting improvements to reduce fire hazards, and disseminating information designed to make school children and the public more conscious of fire hazards;

(3) The establishment in each school of an adequate plan for evacuation in case of fire;

(4) The training of school children in the means of recognizing fire hazards and of corrective steps to be taken in case of fire. Such training may include the establishment of school patrols consisting of school children who are to be constantly alert and on duty to detect fires or fire hazards; and

(5) Taking such additional action as may be necessary to promote the development of programs for fire prevention education and training.

(c) The State Board of Education shall promulgate reasonable and necessary rules and regulations for the establishment of minimum requirements to be met by the various school districts of this state for a school fire marshal program.

(d) Every school district in this state shall operate a school fire marshal program according to the requirements established by the state board, as authorized by this section.

(e) If the state board determines that any school district in this state has not established and maintained an adequate school fire marshal program as required by this section and by the minimum requirements established by the state board, the state board shall notify the school district in writing of the deficiencies in the school's fire marshal program and shall notify the school district that the deficiencies shall be corrected within thirty (30) days from the date of receipt of the notice. If any school district fails or refuses to correct the deficiencies within the thirty (30) days as required in this subsection (e), the state board shall thereafter withhold ten percent (10%) of the state equalization aid of the school district until the time that the state board determines that the deficiencies have been corrected.

History. Acts 1959, No. 61, §§ 1, 2; A.S.A. 1947, §§ 80-1630, 80-1631; Acts 1999, No. 391, § 2.

6-10-111. Equity Assistance Center.

(a) The Department of Education is authorized to establish a special section within its organization, to be known as the Equity Assistance Center, designed to provide assistance to the school districts of the state in such activities as affirmative action, program accessibility, human relations, awareness, and desegregation.

(b) This assistance shall include on-site visits, workshops, program review, and any other special activity which might enable the school districts of the state to more effectively meet their civil rights responsibilities.

(c) The center created by this section shall be the liaison for the department with the United States Office of Civil Rights. The center shall maintain manuals, guidelines, procedures, and other informational materials setting requirements in the area of civil rights and describing how determination of compliance is made.

(d) Annually, each local school district in the state shall provide the center assurances of compliance with civil rights responsibilities in the form and at the time as is designated by the Commissioner of Education.

(e) The department may withhold state aid from any school district that fails to file its assurance of compliance with civil rights responsibilities by October 15 each year or fails to file any other information with a published deadline requested from school districts by the center so long as thirty (30) calendar days are given between the request for the information and the published deadline, except that thirty (30) days notice shall not be required when the request comes from a member or committee of the General Assembly.

(f) The department is authorized to develop forms and promulgate appropriate rules, regulations, and procedures as may be required to implement the provisions of this section.

History. Acts 1985, No. 167, §§ 1-3; 1985, No. 231, §§ 1-3; A.S.A. 1947, §§ 5-910.5 — 5-910.7; Acts 2001, No. 1033, § 1.

RESEARCH REFERENCES

U. Ark. Little Rock L.J. Legislative Survey, Education, 8 U. Ark. Little Rock L.J. 569.

Legislation, 2001 Arkansas General Assembly, Education Law, 24 U. Ark. Little Rock L. Rev. 453.

U. Ark. Little Rock L. Rev. Survey of

6-10-112. Rent on Department of Education buildings.

(a) The various programs and departments of the Department of Education that are financed from state, federal, or cash funds are authorized to pay rent for space utilized in the buildings annexed to the Department of Education Building.

(b) Such rent is to be paid from authorized maintenance accounts.

History. Acts 1969, No. 655, § 39.

6-10-113. Eye protection.

(a) Every student and teacher in the public schools participating in any of the following courses is required to wear industrial-quality eye protective devices at all times while participating in the following courses or laboratories:

(1) Vocational or industrial arts shops or laboratories involving experience with:

(A) Hot molten metals;

(B) Milling, sawing, turning, shaping, cutting, grinding, or stamping of any solid materials;

(C) Heat treatment, tempering, or kiln firing of any metal or other materials;

(D) Gas or electric arc welding;

(E) Any of the processes listed in this section which may be used for repairing a vehicle; or

(F) Caustic or explosive materials; or

(2) Chemical or combined chemical-physical laboratories involving caustic or explosive chemicals or hot liquids or solids.

(b) A board of education may, in its discretion:

(1) Purchase eye protective devices and furnish them free to students and teachers;

(2) Purchase eye protective devices and sell or rent the devices to students and teachers; or

(3) Require students and teachers to furnish their own eye protective devices without cost to the school.

(c) As used in this section:

(1) "Industrial quality eye protective devices" means devices meeting the standards of the American standard safety code for head, eye, and respiratory protection, Z2. 1-1959, promulgated by the American Standards Association, Inc.

(2) A "board of education" shall be construed to include boards of directors of the school districts of this state, county boards of education, or the trustees of the various state-supported institutions of higher learning in this state.

History. Acts 1965, No. 48, §§ 1-3; §§ 1-3 are also codified as §§ 6-51-102 A.S.A. 1947, §§ 80-1634 — 80-1636. and 6-61-108.

Publisher's Notes. Acts 1965, No. 48,

6-10-114. Unlawful to discriminate — Penalties.

(a)(1) It shall be unlawful for any member of the board of directors, administrator, or employee of a public school to knowingly authorize the participation of students in an event or activity held at a location where some students would be excluded or not given equal treatment because of the student's race, national origin, or ethnic background.

(2) It shall be unlawful for any member of the board of directors, administrator, or employee of a public school to impose or threaten to impose disciplinary action against a person because:

(A) The person refuses to authorize or to participate in an event or activity prohibited by this section; or

(B) The person reports a violation of this section.

(b)(1) If the State Board of Education determines that the board of directors or administrators of a public school knowingly violated this section, the public school shall be deemed to be not in compliance with the minimum standards for accreditation.

(2) If the State Board of Education determines that a person certified by the State Board of Education knowingly violated this section, the State Board of Education shall suspend the person's certification for a period not to exceed one (1) year.

(c)(1) A violation of subdivision (a)(2) of this section shall be a Class A misdemeanor.

(2) Any person who knowingly authorizes students to participate in an activity or event in violation of this section shall be guilty of a Class A misdemeanor.

(d) It shall be a defense in any criminal prosecution or administrative hearing that the person authorized student participation in the event or activity after being threatened with disciplinary action if the person failed to authorize the participation.

History. Acts 1989, No. 852, §§ 1, 2.

6-10-115. Period of silence.

The teacher in charge of each public school classroom may, or if so directed by the board of directors of the school district in which the teacher is employed, shall, at the opening of school on each school day, conduct a brief period of silence with the participation of all students in the classroom who desire to participate.

History. Acts 1995, No. 397, § 1; 1995, No. 539, § 1.

6-10-116. [Repealed.]

Publisher's Notes. This section, concerning charter schools, was repealed by Acts 1999, No. 890, § 16. The section was derived from Acts 1995, No. 1126, § 1; 1997, No. 112, § 2.

6-10-117. Four-day school week.

(a) It is found and determined by the General Assembly that granting local school districts greater flexibility in scheduling instructional time can reap educational benefits for the students and financial rewards for the school district. It is the intent of this section to authorize local school districts to initiate and maintain public school

educational programs on a four-day school-week basis, so long as planned instructional time is in accord with requirements established by the State Board of Education.

(b) As used in this section, “four-day school week” means an educational program in which all students attend school for four (4) days a week but no fewer than the total number of hours required by the Arkansas Standards for Accreditation in a five-day school week.

(c) The board of directors of any school district is authorized to initiate and maintain a four-day school week in any or all of the public schools in the school district.

(d)(1) The State Board of Education shall establish appropriate standards, guidelines, rules, and regulations for the determination of average daily membership of school districts and for the distribution of state aid to each local school district that elects to operate any or all of the public schools of its school district on a four-day school-week basis, to provide the school district with an equitable share of aid funds designated to equate a four-day school-week operation by the school district to the educational opportunities provided by a school district offering a five-day school week.

(2) Provided, however, that a school district shall not receive any more state financial aid for offering a four-day school week of instruction than it would have received for offering a five-day school week of instruction.

History. Acts 1997, No. 1147, § 1.

6-10-118. Information about the availability of ARKids First.

(a) The Department of Education shall cooperate with and assist local school districts in this state in the establishment of a program to inform students about health care coverage under the ARKids First Program Act, § 20-77-1101 et seq.

(b) The informational program shall:

(1) Be developed in cooperation with the Department of Human Services and any other state or community organization interested in assisting in the development and dissemination of information about the ARKids First Program to students and their parents or custodians;

(2) Include information about the eligibility guidelines and application for coverage under the program; and

(3) Provide recommended informational material to be delivered by local school districts to students and their parents or custodians.

(c) The State Board of Education shall promulgate rules and regulations to implement this informational program.

History. Acts 2005, No. 882, § 1.

6-10-119. Medicaid billing.

(a)(1) By May 1 of each year, the Special Education Section of the Department of Education shall determine which school districts are underperforming in the area of direct-service Medicaid billing.

(2) Based on this determination, underperforming school districts shall be directed by the section to associate with an education service cooperative for the provision of direct-service Medicaid billing services.

(b) The school district for which billing services are rendered shall pay the education service cooperative providing the billing services an amount necessary to compensate the education service cooperative for costs associated with providing the services, subject to the review and approval of the section.

(c) Nothing in this section shall be construed to restrict qualified public or private providers from developing, maintaining, or expanding service relationships with school districts.

History. Acts 2005, No. 1527, § 1.

6-10-120. Adequate and equitable public education system.

The General Assembly finds:

(1) It is the duty of the State of Arkansas to provide a general, suitable, and efficient system of free public schools to the children of the state, under Arkansas Constitution, Article 14, § 1;

(2) The General Assembly is obligated to ensure the provision of an adequate and equitable system of education;

(3) The House Interim Committee on Education and Senate Interim Committee on Education conducted hearings in 2006 after the 2005 Supreme Court decision in *Lake View School District v. Huckabee*, 01-836 (Ark. 12-15-2005);

(4) The Eighty-fifth General Assembly, in the First Extraordinary Session of 2006, implemented revisions to Arkansas law recommended by the House Interim Committee on Education and the Senate Interim Committee on Education based on the committees' findings following the 2006 hearings; and

(5) The acts passed upon the recommendation of the House Interim Committee on Education and the Senate Interim Committee on Education result in a system of public education that is adequate and equitable.

History. Acts 2006 (1st Ex. Sess.), No. 19, § 1.

6-10-121. Tornado safety drills.

(a)(1) As used in this section, "public school" means a school that is part of a public school district under the control and management of a local school district board of directors.

(2) "Public school" includes the Arkansas School for Mathematics, Sciences, and the Arts, the Arkansas School for the Deaf, the Arkansas School for the Blind, and juvenile detention centers.

(b) It shall be the duty of the Director of the Arkansas Department of Emergency Management to require all public schools to conduct tornado safety drills not less than four (4) times per year in the months of September, October, January, and February.

History. Acts 2007, No. 828, § 1.

6-10-122. Automated external defibrillators required.

The State Board of Education shall promulgate rules to require that each school have an automated external defibrillator if funds are available.

History. Acts 2007, No. 1598, § 1.

CHAPTER 11 EDUCATION

SUBCHAPTER.

1. STATE BOARD OF EDUCATION.
2. STATE BOARD OF WORKFORCE EDUCATION AND CAREER OPPORTUNITIES.

SUBCHAPTER 1 — STATE BOARD OF EDUCATION

SECTION.

- 6-11-101. Members.
- 6-11-102. Commissioner of Education.
- 6-11-103. Officers.
- 6-11-104. Meetings.
- 6-11-105. Powers and duties.
- 6-11-106. [Repealed.]
- 6-11-107. Official seal.
- 6-11-108. [Repealed.]
- 6-11-109. [Repealed.]
- 6-11-110. Uniform system of records — Reports.
- 6-11-111. Records of proceedings — Annual report.
- 6-11-112. Power to make plans coordinating state and federal laws.
- 6-11-113. Federal aid — Acceptance and distribution generally.
- 6-11-114. Federal aid — Receipt and administration for school facilities.
- 6-11-115. Special contracts.
- 6-11-116. Standards for priority of projects.

SECTION.

- 6-11-117. Copies of documents as evidence.
- 6-11-118. [Repealed.]
- 6-11-119. Correspondence courses.
- 6-11-120. Educational programs for children in institutions.
- 6-11-121, 6-11-122. [Repealed.]
- 6-11-123. [Repealed.]
- 6-11-124. Statewide computer network.
- 6-11-125. Legislative intent regarding information technology.
- 6-11-126. Computer funds approval.
- 6-11-127. School district boundaries.
- 6-11-128. Arkansas Public School Computer Network.
- 6-11-129. Data to be accessible on website.
- 6-11-130. [Repealed.]
- 6-11-131. Divisions of the Department of Education.
- 6-11-132. Financial impact statements for administrative rules.

Publisher's Notes. Acts 1941, No. 127, § 9, provided that the provisions of the act were cumulative with other statutes on this subject.

Due to the enactment of subchapter 2 by Acts 1999, No. 1323, the existing provisions of this chapter have been designated as subchapter 1.

Cross References. Department of Education, § 25-6-101 et seq.

Department of Workforce Education, § 25-30-101 et seq.

Quality Education Act of 2003, § 6-15-201 et seq.

School Law, § 6-10-101 et seq.

Vocational and technical education, § 6-50-101 et seq.

Preambles. Acts 1939, No. 184 contained a preamble which read: "Whereas, there are pending in the Seventy-Sixth Congress several measures designed to provide federal aid for education in the respective states, and

"Whereas, there is a likelihood that one such measure will be enacted by the Seventy-Sixth Congress, effective July 1, 1939, and

"Whereas, the General Assembly of Arkansas will not be in session again until 1941 and it is necessary that the General Assembly provide for the acceptance of these funds and for the administration thereof by definite constituted state authority in accordance with the federal statutes;

"Now, therefore...."

Acts 1959, No. 160 contained a preamble which read: "Whereas, the State Board of Education is one of the most important and most active of the State Boards or Commissions; and

"Whereas, many other State Boards and Commissions are authorized by law to pay per diem allowances and expenses;

"Therefore...."

Acts 1987, No. 771 contained a preamble which read: "Whereas, state laws relating to vocational and technical education changed significantly during the past six years;

"Whereas, a careful study of statutes affecting vocational and technical education reveals several conflicts among various sections, instances of legislation by inference rather than by specific provision, and inconsistency in terminology;

"Whereas, the Arkansas Statute Revision Commission is presenting to the 1987

General Assembly recommendations for recodifying the statutes; and

"Whereas, although the Commission members recognize the problems in vocational education, they believe that only the General Assembly has legal authority to resolve them;

"Now therefore...."

Effective Dates. Acts 1931, No. 169, § 198: approved Mar. 25, 1931. Emergency clause provided: "It is found as a fact that the advent of the automobile, and the great improvement in the roads of the State have worked great changes in the system of administering the public schools of the State, and there is occasion to change the boundaries of many such districts before the end of the current school term, to relieve many of them of pressing indebtedness, to immediately administer to the health of many pupils in the schools, and to distribute State Funds to many of the schools in the near future to prevent some of them from having to close for the lack of funds; therefore, it is necessary that this act take immediate effect for the preservation of public peace, health, and safety; therefore, an emergency is declared and this act shall take effect and be in force immediately after its passage."

Acts 1937, No. 244, § 3: Mar. 12, 1937. Emergency clause provided: "For the reason that the financial condition of the Public Schools of Arkansas is such that immediate relief is imperative and because of the responsibility with which the Governor is charged in protecting and promoting the best interests of the public schools, because the Governor is held responsible for carrying out the mandate of the people in inaugurating free textbooks as provided in Initiative Act No. 1 of 1936, and because the laws do not give him this legal responsibility, and this act being necessary for the immediate preservation of the public peace, health and safety, an emergency is hereby declared to exist, and this act shall take effect and be in full force from and after its passage and approval."

Acts 1941, No. 127, § 11: approved Mar. 11, 1941. Emergency clause provided: "It is found and declared by the General Assembly that many of the present members of the State Board of Education are so engaged with public duties that they do not have the time to give adequate atten-

tion to consideration of matters properly coming before the Board of Education; that reorganization of the State Board of Education as provided in this act would be materially delayed and would result in much uncertainty as to when the reforms provided for would go into effect, unless this act becomes effective immediately; that it is vital to the welfare of the public schools of this state that the State Board of Education take immediate steps to put into effect the reforms permitted by this act; that the efficient functioning of the schools for the new year beginning July 1, 1941, will depend upon immediate careful planning and execution of these plans by the Board charged with the responsibility for their administration; that the Board should have ample time prior to the beginning of the new school year to put many of these plans into effect, and that it is therefore necessary for the preservation of the public peace, health and safety that this act become effective without delay; an emergency is therefore hereby declared, and this act shall take effect and be in force from and after its passage."

Acts 1949, No. 250, § 3: approved Mar. 8, 1949. Emergency clause provided: "Whereas, Section 11461 of Pope's Digest as now worded is susceptible to more than one interpretation as to the status of the Commissioner of Education, and whereas, said section specifically limits the salary of the Commissioner to \$5,000 annually, and whereas, the expanding educational program in Arkansas requires the services of a man of unusual competence to serve as Commissioner of Education and to secure the services of such a person a salary in excess of this \$5,000.00 limit must be provided, and whereas, this cannot be done at this session of the General Assembly unless this Act becomes effective immediately; now, therefore, an emergency is hereby declared to exist, and this Act being necessary for the preservation of the public peace, health, and safety shall be in full force and effect from and after its passage."

Acts 1968 (1st Ex. Sess.), No. 67, § 7: July 1, 1968. Emergency clause provided: "It is hereby found and determined by the General Assembly that certain school districts in this State which have experienced unusual and rapid growth in enrollment have found it necessary to increase indebtedness to continue to provide a sat-

isfactory level of school services for such increased enrollment; that procedures must be established whereby such school districts may fund their outstanding non-bonded debt existing on the effective date of this act thereby restoring the school district's finances to a manageable basis; and that the immediate passage of this act is necessary to establish authorization and procedure for funding such non-bonded debt, therefore an emergency is hereby declared to exist and portions of this act being immediately necessary for the preservation of the public peace, health and safety, Sections 5 through 7 of this act shall be effective from and after its passage and approval. All other sections of this act shall be effective from and after July 1, 1968."

Acts 1971, No. 38, §§ 10, 23: Feb. 4, 1971: all reorganization to be accomplished by July 1, 1971. Emergency clause provided: "It is hereby found and determined by the General Assembly of the State of Arkansas that there is an immediate need to establish a more responsive and responsible State Government sufficiently flexible to meet changing conditions and to establish executive authority in those areas where executive responsibility presently lies and to promote economies in the operation of the Government by the consolidation of various departments, boards and commissions; and that only by the immediate passage of this Act may procedures be established for effectuating a more responsive, responsible and economic State Government. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety, shall be in full force and effect from and after its passage and approval."

Acts 1971, No. 682, § 44: Apr. 20, 1971. Emergency clause provided: "It is hereby found and determined that it may be necessary to extend the regular session of the Sixty-Eighth General Assembly as authorized in the Constitution; that under the provisions of Amendment 7 to the Constitution, enactments of the General Assembly that do not have an emergency clause do not become effective until ninety (90) days after the date of final adjournment of the General Assembly; that the extended session of the General Assembly may not adjourn in time for this Act to

take effect prior to July 1, 1971, thereby depriving the agency for which funds are appropriated herein of necessary operating funds to commence the next fiscal biennium; and in order that the appropriation made herein may be available on July 1, 1971, the General Assembly hereby determines that the immediate passage of this Act is necessary for the maintenance and operation of the essential governmental services. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety, shall be in full force and effect from and after its passage and approval, provided that the appropriation authorized herein shall not be available until July 1, 1971."

Acts 1973, No. 62, § 3: July 1, 1973.

Acts 1981, No. 250, § 2: July 1, 1981. Emergency clause provided: "It is hereby found and determined by the General Assembly that it is essential to an orderly transition of the Department of Education into two separate divisions that this Act become effective on July 1, 1981; That unless an emergency is declared, an extension of the 1981 regular session of the General Assembly could delay the effective date of this Act beyond July 1, 1981. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety, shall be in full force and effect from and after July 1, 1981."

Acts 1987, No. 771, § 17: Apr. 7, 1987. Emergency clause provided: "It is hereby found and determined by the General Assembly that there is an urgent need to clarify the laws related to vocational and technical education. Therefore, an emergency is hereby declared to exist, and this Act being immediately necessary for the preservation of the public peace, health, and safety, shall be in full force and effect from and after its passage and approval."

Acts 1991, No. 773, § 14: Mar. 26, 1991. Emergency clause provided: "It is hereby found and determined by the Seventy-Eighth General Assembly that the reconstructing of the delivery system of adult education and vocational education in this state is necessary to provide quality educational programs which are accessible by all segments of the population in this state; that recent studies have shown that

in the year 2000, workers must have a minimum of fourteen (14) years education to function in the work force; that the state is in desperate need of training, retraining and upgrading the work force; that this act will provide a means to establish more institutions working closely with business, industry, labor and agriculture to provide every citizen with an opportunity to participate in vocational-technical training and associate degree programs within a reasonable driving distance of their homes; that it is necessary for this act to become effective immediately so needed changes can be implemented and comprehensive planning can begin. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health, and safety, shall be in full force and effect from and after its passage and approval."

Acts 1992 (1st Ex. Sess.), No. 4, § 8: Feb. 27, 1992. Emergency clause provided: "It is hereby found and determined by the Seventy-Eight General Assembly, meeting in 1st Extraordinary Session, that there is an immediate need to implement the public school system statewide computer network which will link all the public schools and the Department of Education, thereby enhancing the effective and efficient operations of the public school system in Arkansas; therefore, an emergency is hereby declared to exist, and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect upon its passage and approval."

Acts 1995, No. 297, § 9: Feb. 13, 1995. Emergency clause provided: "It is hereby found and determined by the General Assembly of the State of Arkansas that the immediate effectiveness of this act is essential to the operation of the Department of Education. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health, and safety, shall be in full force and effect from and after its passage and approval."

Acts 1997, No. 250, § 258: Feb. 24, 1997. Emergency clause provided: "It is hereby found and determined by the General Assembly that Act 1211 of 1995 established the procedure for all state boards and commissions to follow regarding reimbursement of expenses and stipends for

board members; that this act amends various sections of the Arkansas Code which are in conflict with the Act 1211 of 1995; and that until this cleanup act becomes effective conflicting laws will exist. Therefore an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 1997, No. 1362, § 57: July 1, 1997. Emergency clause provided: "It is hereby found and determined by the Eighty-First General Assembly, that the provisions of Section 51 herein will provide the monies necessary to adequately fund the operations of the Department of Education each fiscal year of the 1997-99 biennium and must be made available for the 1997-98 fiscal year. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety, Section 51 of this Act shall be in full force and effect from and after its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, Section 51 shall become effective on the expiration date of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, Section 51 shall become effective on the date the last house overrides the veto. The remaining sections of this Act shall become effective from and after July 1, 1997."

Acts 1999, No. 1078, § 92: July 1, 2000.

Acts 1999, No. 1429, § 37: July 1, 1999. Emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1999 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1,

1999 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1999."

Acts 2003, No. 1097, § 2: Apr. 4, 2003. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the state needs timely and accurate financial data relating to the funding and expenditures of the various school districts in the state in order to fulfill its constitutional mandates to provide education to the children of Arkansas; that the Arkansas School Computer Network establishes a tool whereby timely and comparable information may be gathered pertaining to the funding and expenditures of the various public schools in the state; and that this act is immediately necessary because it is vital that this information be provided to the Department of Education and the General Assembly in a timely manner. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2003, No. 1769, § 2: Apr. 22, 2003. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the State of Arkansas needs timely and accurate financial data relating to the funding and expenditures of the various school districts in the state in order to fulfill its constitutional mandates to provide education to the children of Arkansas; that the Arkansas School Computer Network establishes a tool whereby timely and comparable information may be gathered pertaining to the funding and expenditures of the various public schools in the state; and that it is vital that this information be provided to the Department of Education and the General Assembly in a timely

manner. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2003 (2nd Ex. Sess.), No. 90, § 5: emergency clause failed to pass. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the Arkansas Supreme Court in *Lake View School District No. 25 v. Huckabee*, 351 Ark. 31 (2002), declared the now existing system of education to be unconstitutional because it is both inequitable and inadequate; the Arkansas Supreme Court set forth the test for a constitutional system to be a system in which the state has an 'absolute duty' to provide an 'equal opportunity to an adequate education'; and that this act is immediately necessary because the Arkansas Supreme Court instructed the General Assembly to define and provide what is necessary to provide an adequate and equitable education for the children of Arkansas. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2005, No. 1426, § 7: Mar. 30, 2005. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the Arkansas Supreme Court has determined that current public school academic facilities in Arkansas are inadequate and inequitable; that the General Assembly established the Joint Committee on Educational Facilities to inventory the current condition of public school academic facilities and recommend methods for bringing those facilities into conformity with the court's constitutional expectations; that the pro-

grams established in this act are derived from recommendations of the joint committee and are part of a comprehensive state program for overseeing the provision of constitutionally appropriate public school academic facilities across the state; and that this program must be implemented immediately for the good of public school students in the State of Arkansas. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2005, No. 1672, § 6: July 1, 2005. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the study of staffing needs conducted pursuant to Act 64 of the Second Extraordinary Session of 2003 determined that the Department of Education is in need of reorganization; that this act would reorganize the department to help the department become more efficient and effective; and that to aid an orderly transition this act should become effective at the beginning of the next fiscal year. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2005."

Acts 2005, No. 1936, § 4: Apr. 11, 2005. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that there needs to be better coordination among educational entities in the state; that it is imperative to include science, mathematics, and technology interests in the coordination efforts; and that this act is immediately necessary because the Arkansas Commission for Coordination of Educational Efforts is in the process of developing recommendations for improvements in education in the state. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If

the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2005, No. 2190, § 24: Apr. 13, 2005. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the services of the county boards of education are no longer needed by the school districts; that there will be no funding available for the operation of the county boards of education; and that this act is immediately necessary because county boards of education need sufficient authority to transfer functions, duties, and records prior the end of the fiscal year. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2006 (1st Ex. Sess.), Nos. 32 and 33, § 4: Apr. 11, 2006. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the Arkansas Supreme Court declared the public school funding system to be inadequate and that the public schools are operating under a constitutional infirmity which must be corrected immediately; that to correct the constitutional infirmity the General Assembly must guarantee the provision of adequate

academic facilities; and that the continued existence of the Commission for Arkansas Public School Academic Facilities and Transportation will assist the state in its efforts to guarantee adequate academic facilities for students throughout the state. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2006 (1st Ex. Sess.), No. 38, § 4: Apr. 11, 2006. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that current Arkansas law does not provide sufficient information on the cost of administrative rules promulgated by the State Board of Education and the State Board of Workforce Education and Career Opportunities; and that this bill will provide critical information on the cost of administrative rules to public school districts and will minimize the possibility of the placement of unfunded mandates upon public school districts. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

RESEARCH REFERENCES

Am. Jur. 68 Am. Jur. 2d, Schools, § 37 et seq.

C.J.S. 78 C.J.S., Schools, § 86 et seq.

6-11-101. Members.

(a) The State Board of Education shall be composed of nine (9) members:

(1) Two (2) members to be selected from each of the congressional districts of the state as they exist on the July 31, 2007; and

(2) One (1) member to be appointed at large from within the state.

(b)(1) The term of office of a member of the state board shall be for a single term of seven (7) years.

(2)(A) Any member appointed to the state board to fill a vacancy for an uncompleted term with less than three (3) years remaining on the original term may be reappointed to an additional term of seven (7) years.

(B) No member serving three (3) or more years on the state board may be reappointed.

(3) No current or new member shall be allowed to resign in order to be appointed to a new term on the state board.

(4) Nothing in this section shall be construed to change the terms of any member of the state board who was appointed prior to June 3, 2004.

(c) The membership of the state board shall reflect the diversity in general education.

(d)(1) No person may serve as a member of the state board unless he or she is a qualified elector and is a person of high moral standards and recognized ability.

(2) Neither the Commissioner of Education nor any candidate for public office, holder of a public office in the state, schoolteacher, county or city superintendent, employee of a state-supported college or university, or member of any board of trustees of any state institution of higher learning shall serve as a member of the state board.

(e) The members of the state board shall be appointed by the Governor, subject to the confirmation of the Senate, and shall take the oath of office for officers prescribed by the Constitution.

(f)(1) Whenever a vacancy occurs in the membership of the state board, the Governor shall appoint a successor who shall serve the remainder of the unexpired term of the member that he or she succeeded, subject to all other provisions of this section.

(2) Resignation, removal from the district from which he or she is appointed, disqualification, incapacitation from mental or physical disability or otherwise, or change in status from the eligibility requirements for membership on the state board shall automatically create a vacancy in the membership of the state board, and no such member shall thereafter exercise any of the functions of membership on the state board even though his or her successor has not been appointed.

(g)(1) Members of the state board shall be subject to removal from office by the Governor when the actions or condition of a member shall be considered as sufficient cause for removal.

(2) However, before a member may be removed for cause, this cause must have been accepted as true, good, and sufficient by a majority written vote of all members of the state board after a formal hearing at a regular or special session of the state board.

(h) The members of the state board shall serve without remuneration but may receive expense reimbursement and stipends in accordance with § 25-16-901 et seq., as follows:

(1) Actual expenses while attending regular and special meetings of the state board; and

(2) A per diem allowance when in attendance at regular or special meetings of the state board.

History. Acts 1931, No. 169, §§ 3-5; 1937, No. 244, § 1; Pope's Dig., §§ 11442 — 11445; Acts 1941, No. 127, §§ 1-4; 1959, No. 160, § 1; 1971, No. 38, § 10; 1973, No. 62, § 1; A.S.A. 1947, §§ 5-910, 80-102 — 80-105, 80-108; Acts 1993, No. 294, § 4; 1995, No. 297, § 1; 1997, No. 250, § 14; 1999, No. 885, § 1; 2003 (2nd Ex. Sess.), No. 90, § 4; 2007, No. 344, § 1.

A.C.R.C. Notes. As amended by Acts 1995, No. 297, this section also contained a subsection (j) which read as follows: "(j) Upon the effective date of this act, those members of the State Board of Education and the State Board of Vocational Education shall become members of the two (2) boards, along with those persons additionally appointed by the Governor as prescribed by this section, so as to complete

the composition of the boards. At the first meeting of the boards, the members shall draw lots for terms of office, with the terms of two (2) members expiring on June 30, 1996, and no more than two (2) terms expiring on June 30 of each year thereafter."

Amendments. The 2007 amendment inserted "state" throughout the section; rewrote (a) and (b); inserted "or she" in (d)(1); in (f)(1), substituted "Whenever" for "When" and "who shall serve the remained of the unexpired term of the member that he or she" for "to the person who has vacated the membership, who will serve the unexpired term of the person"; and substituted "Actual" for "Their actual" in (h)(1).

6-11-102. Commissioner of Education.

(a)(1) Subject to confirmation by the Governor, the State Board of Education is empowered to employ a person to act as the Commissioner of Education and who shall be the administrative head of the Department of Education.

(2) The commissioner shall serve at the pleasure of the Governor.

(b) The commissioner shall:

(1) Devote all of his or her time to the duties of his or her office;

(2) Act as an agent of the state board; and

(3) Perform other duties as are designated by the state board and by statute.

(c)(1) The person selected as the commissioner must:

(A) Be a person of good moral character, recognized as a leader in the field of education, and qualified technically and by experience to direct the work of the department;

(B) Hold a master's degree from an accredited institution;

(C) Have had ten (10) years' experience as a teacher, five (5) of which must be of an administrative or supervisory nature; and

(D) Hold a valid state teacher's certificate.

(2) No person who is related within the fourth degree of consanguinity or affinity to any member of the state board shall be eligible to serve as commissioner.

(d) It is the specific intention of this act to define and declare the commissioner to be the employee of the state board.

(e)(1) The commissioner, or a disbursing agent designated by him or her and approved by the state board, shall give bond to the State of

Arkansas as provided by law for other disbursing agents conditioned for the faithful performance of his or her duties and the faithful accounting for all the school money of the state, of any county, or of any school district that may come into his or her hands.

(2) The bond shall be in a solvent surety company having a right to do business in the State of Arkansas and shall be approved by the state board.

(3) The premium on the bond shall be paid by the state board as one of the expenses of the state board.

(f) The state shall furnish the commissioner with suitable offices.

History. Acts 1931, No. 169, §§ 22, 23; Pope's Dig., §§ 11461, 11462; Acts 1941, No. 127, § 7; 1949, No. 250, § 1; 1971, No. 38, § 10; A.S.A. 1947, §§ 5-910, 80-118, 80-120; Acts 1987, No. 771, § 9; 1993, No. 294, § 4; 1995, No. 297, § 2; 1999, No. 1323, § 3; 2005, No. 1672, § 2.

A.C.R.C. Notes. The operation of subsection (e) of this section was suspended by adoption of a self-insured fidelity bond program for public officers, officials, and employees, effective July 20, 1987, pursuant to § 21-2-701 et seq. Subsection (e) of this section may again become effective upon cessation of coverage under that program. See § 21-2-703.

Acts 2005, No. 1846, § 3, provided: "SALARY OF THE DIRECTOR OF THE DEPARTMENT OF EDUCATION. It is the intent of the General Assembly that the appropriation for the salary of the Director of the Department of Education shall be the sole and exclusive authority for his or her salary. It is further the intent of the General Assembly that the Director be required to devote all of his or her working time exclusively to the performance of his or her duties as Director of the Department of Education. Therefore, the Director of the Department of Education is hereby prohibited from accepting any additional salary from any other source (including state, federal, or private entities or persons) for the performance of his or her duties as Director, and is prohibited from accepting any salary, fees or compensation from any other source (including state, federal or private entities or persons) for any other employment of any kind outside the scope of his or her duties

as Director, including but not limited to consulting work for any other public or private entity. This section shall not be construed to prohibit the Director from accepting or receiving expense reimbursements and employee benefits as provided by State law."

Publisher's Notes. Acts 1931, No. 169, § 28 transferred the duties of the State Superintendent of Public Instruction to the Commissioner of Education. Acts 1971, No. 38 changed the title of the Commissioner of Education to the Director of Education. Acts 1981, No. 64 divided the Department of Education into two divisions to be directed by a Director of General Education and a Director of Vocational and Technical Education.

Amendments. The 2005 amendment substituted "Commissioner of Education and who shall be the administrative head" for "Director" in (a)(1); and substituted "commissioner" for "director" throughout.

Meaning of "this act". Acts 1931, No. 169, codified as §§ 6-10-101 — 6-10-104, 6-10-107, 6-11-101 — 6-11-105, 6-11-106 [repealed], 6-11-107, 6-11-110, 6-11-111, 6-11-117, 6-12-109 [repealed], 6-12-206 [repealed], 6-13-101 — 6-13-104, 6-13-619, 6-13-620, 6-14-104 [repealed], 6-14-118, 6-16-103 — 6-16-105, 6-16-107, 6-17-101, 6-17-104, 6-17-105 [repealed], 6-17-401, 6-17-405 [repealed], 6-18-217, 6-18-219, 6-18-501, 6-18-507, 6-18-701, 6-19-102, 6-20-202 — 204, 6-20-208 [repealed], 6-20-215 — 6-20-217, 6-20-220 [repealed], 6-20-221, 6-20-222, 6-20-403, 6-20-408 [repealed], 6-20-1201, 6-20-1204 — 6-20-1215, 6-21-101, 6-21-602 [repealed], 6-21-604 — 6-21-606, 6-51-211 — 6-51-215, 26-80-101, 26-80-102, 26-80-104.

6-11-103. Officers.

(a) The State Board of Education shall elect one (1) of its number chair, one (1) vice chair, and such other officers as the state board deems necessary to perfect its organization.

(b) The Commissioner of Education shall act as ex officio secretary of the state board without vote.

History. Acts 1931, No. 169, § 7; Pope's § 5; 1991, No. 773, § 7; 1995, No. 297, Dig., § 11447; Acts 1941, No. 127, § 5; § 3; 1999, No. 1323, § 4. A.S.A. 1947, § 80-107; Acts 1987, No. 771,

6-11-104. Meetings.

(a) The State Board of Education shall meet a minimum of six (6) times annually.

(b) The state board will meet each December to determine the meeting dates for the following year.

(c)(1) Special meetings may be called by the chairman of the state board with no less than twenty-four (24) hours notice to the members and the Commissioner of Education and with timely responses from enough state board members that they will attend the meeting so as to indicate that a quorum will be present.

(2) In the absence of the chairman, the commissioner shall call a meeting on the request of three (3) members of the state board with the same notice and response requirements.

(3) If both the chairman and the commissioner shall be absent or refuse to call a meeting, any three (3) members of the state board may call a meeting by utilizing the same notice and response requirements in notifying the members and the office of the commissioner.

History. Acts 1931, No. 169, § 6; Pope's Acts 1987, No. 511, § 1; 1993, No. 294, Dig., § 11446; Acts 1981, No. 250, § 1; § 4; 1997, No. 703, § 1; 1999, No. 1323, 1983, No. 600, § 1; A.S.A. 1947, § 80-106; § 5.

6-11-105. Powers and duties.

(a) The State Board of Education shall:

(1) Have general supervision of the public schools of the state;

(2) Prepare and distribute plans and specifications for the construction and equipment of school buildings and approve plans and expenditures of public school funds for all new school buildings;

(3) Recommend courses of study for the public schools and teacher training institutions;

(4) Prescribe rules and regulations for the sanitary inspection of all buildings and for the examination of pupils to detect contagious and infectious diseases and physical defects;

(5) Issue certificates based upon credentials presented by applicants for certificates to teach in the public schools of the state;

(6) Qualify and standardize public schools and prescribe requirements for accrediting and grading public schools;

- (7) Supervise the operation of school district budgets;
- (8) Supervise the purchase and distribution of textbooks;
- (9) Take such other action as it may deem necessary to promote:
 - (A) The physical welfare of school children;
 - (B) The organization and efficiency of the public schools of the state; and

- (C) Public education and awareness about racial profiling;
- (10)(A) Perform all other functions that may now or hereafter be delegated to the state board by law.

- (B) However, nothing in this act shall prohibit the state board and the Department of Education from issuing teachers' certificates upon the results of teachers' examinations as now provided by law;

- (11) Eliminate unnecessary reports and paperwork by yearly identifying and compiling a list of all reports that are required from local school districts by the department or the state board for the school year; and

- (12) Adopt policies to ensure, except as allowed under subsection (b) of this section, that local school districts are not required by the state board or the department to:

- (A) Provide information that is already available on a department student information management system or housed within the department;

- (B) Provide the same written information more than one (1) time during a school year unless the information has changed during the school year; or

- (C) Complete forms for children with disabilities that are not necessary to ensure compliance with federal statutes and regulations, including, but not limited to, the Individuals with Disabilities Education Act, state mandates, and corresponding appropriations governing the provision of special education services to students with disabilities.

- (b) The state board may require information available on a department student information management system or require the same information twice if the state board can demonstrate a compelling need and can demonstrate there is not a more expeditious manner of getting the information.

- (c) The state board may organize and, from time to time, change and alter the department into branches or sections as may be found necessary and desirable by the Commissioner of Education to perform all proper functions and to render maximum service relating to the operation and improvement of the general education programs of the state.

- (d) The state board shall adopt rules and regulations for its meetings and proceedings as it deems advisable.

History. Acts 1931, No. 169, §§ 7, 14; §§ 5, 11; 1999, No. 1323, §§ 6, 7; 2003, Pope's Dig., §§ 11447, 11453; Acts 1941, No. 127, §§ 5, 6, 8; A.S.A. 1947, §§ 80-107, 80-113, 80-122; Acts 1987, No. 771, No. 413, § 1; 2005, No. 2136, § 1.

Amendments. The 2005 amendment added present (a)(9)(C).

Meaning of “this act”. See note to § 6-11-102.

U.S. Code. The Individuals with Disabilities Education Act, referred to in

(a)(11)(B)(iii), is codified as 20 U.S.C. § 1400 et seq.

Cross References. Competency testing, § 6-15-401 et seq.

CASE NOTES

Cited: Lavender v. Rogers, 232 Ark. 673, 339 S.W.2d 598 (1960); Lavender v. Rogers, 233 Ark. 161, 343 S.W.2d 103

(1961); Little Rock Sch. Dist. v. Pulaski County Special Sch. Dist., 597 F. Supp. 1220 (E.D. Ark. 1984).

6-11-106. [Repealed.]

Publisher’s Notes. This section, concerning vocational education, was repealed by Acts 1999, No. 1323, § 8. The

section was derived from Acts 1931, No. 169, § 16; Pope’s Dig., § 11455; A.S.A. 1947, § 80-115; Acts 1987, No. 771, § 8.

6-11-107. Official seal.

The State Board of Education shall adopt a seal, and the seal shall be used by the Commissioner of Education to authenticate documents or copies of documents as the state board or commissioner may deem advisable.

History. Acts 1931, No. 169, § 19; Pope’s Dig., § 11458; A.S.A. 1947, § 80-

109; Acts 1987, No. 771, § 6; 1999, No. 1323, § 9.

6-11-108. [Repealed.]

Publisher’s Notes. This section, concerning the employment of personnel, was repealed by Acts 2001, No. 537, § 2. The

section was derived from Acts 1941, No. 127, § 8; A.S.A. 1947, § 80-122; Acts 1987, No. 771, § 11; 1999, No. 1323, § 10.

6-11-109. [Repealed.]

Publisher’s Notes. This section, concerning petition for approval, was repealed by Acts 2007, No. 1573, § 42. The

section was derived from Acts 2003, No. 1738, § 5.

6-11-110. Uniform system of records — Reports.

- (a) The State Board of Education shall prescribe a uniform system of records to be kept by the school directors, principals, and teachers of schools.

(b) All the school officials and employees listed in subsection (a) of this section shall make reports to the Commissioner of Education as may be designated by the state board.

History. Acts 1931, No. 169, § 18; Pope’s Dig., § 11457; A.S.A. 1947, § 80-117; Acts 1999, No. 1323, § 11.

6-11-111. Records of proceedings — Annual report.

(a) The State Board of Education shall keep in the office of the Commissioner of Education a complete record of the minutes of its meetings and other proceedings and annually shall make a report to the Governor which shall embody the report of the commissioner.

(b) The annual report of the state board to the Governor shall be transmitted by him or her to the General Assembly at the opening of the legislative session.

(c)(1) Each annual report of the state board shall be printed by the state board and distributed among the various school officers of the state or made available to public school districts by including a link to the annual report on the Department of Education website.

(2) The annual report shall include without limitation the information required by § 6-20-2304(b).

History. Acts 1931, No. 169, §§ 17, 25; Pope's Dig., §§ 11456, 11464; A.S.A. 1947, §§ 80-110, 80-112; Acts 1987, No. 771, § 7; 1999, No. 1323, § 12; 2007, No. 1587, § 1.

Amendments. The 2007 amendment rewrote (c).

Cross References. Annual report and statement of finances, § 6-51-214.

6-11-112. Power to make plans coordinating state and federal laws.

The State Board of Education is empowered to make plans, rules, and regulations as are necessary in order for this state to meet the requirements of any law enacted by Congress for general education or any supplementary federal regulations pertaining to that legislation.

History. Acts 1955, No. 88, § 2; A.S.A. 1947, § 80-141; Acts 1987, No. 771, § 14; 1999, No. 1323, § 13.

6-11-113. Federal aid — Acceptance and distribution generally.

(a)(1) The General Assembly accepts all federal aid to education that may be provided by Congress.

(2) The State Board of Education is designated as the state educational authority for the purpose of representing the state in the administration of funds provided by Congress.

(3) The state board is empowered to promulgate such regulations as are necessary on the part of the state to meet any and all requirements of the federal government in the distribution of federal aid.

(4) The state board shall provide for the proper auditing and accounting of all federal funds and for making all necessary reports regarding the expenditures of the federal funds.

(5) The state board shall perform such other functions as may be prescribed by the act providing aid.

(b) The Treasurer of State is designated to serve as trustee for such funds as may be apportioned to the State of Arkansas in this connection.

(c) The funds shall be disbursed according to the provisions of the federal act allocating them.

History. Acts 1939, No. 184, §§ 1, 2; A.S.A. 1947, §§ 80-123, 80-124; Acts 1987, No. 771, § 12; 1999, No. 1323, § 14.

CASE NOTES

Cited: Little Rock Sch. Dist. v. Pulaski County Special Sch. Dist., 597 F. Supp. 1220 (E.D. Ark. 1984).

6-11-114. Federal aid — Receipt and administration for school facilities.

The State Board of Education and the State Board of Workforce Education and Career Opportunities are designated to receive and administer any and all federal funds made available to this state for the purpose of assisting local school districts in providing elementary and secondary school facilities for general education programs and for vocational and adult education programs respectively.

History. Acts 1955, No. 88, § 1; A.S.A. 1947, § 80-140; Acts 1987, No. 771, § 13.

CASE NOTES

Cited: Little Rock Sch. Dist. v. Pulaski County Special Sch. Dist., 597 F. Supp. 1220 (E.D. Ark. 1984).

6-11-115. Special contracts.

The State Board of Education is authorized to enter into and carry out such contractual agreements and arrangements with local school districts and other agencies as may be found necessary to implement any and all sections of Public Law 89-10, as amended, and other federal programs, including services for children of migratory farm workers, services for persons with mental and physical disabilities as set out under Title VI of Pub. L. No. 89-10 [repealed], and any and all other services found to be essential to the extension of the benefits to eligible participants.

History. Acts 1971, No. 682, § 36; 1997, No. 208, § 3.

A.C.R.C. Notes. Acts 1997, No. 208, § 1, codified as § 22-4-408, provided: "Legislative intent and purpose. The General Assembly hereby acknowledges that

many of the laws relating to individuals with disabilities are antiquated, functionally outmoded, derogatory, ambiguous or are inconsistent with more recently enacted provisions of the law. Consequently, it is the intent of the General Assembly

and the purpose of this act to clarify the relevant chapters of Titles 1, 6, 9, 13, 14, 16, 17, 20, 22, 23, and 27 of the Arkansas Code Annotated of 1987.”

U.S. Code. Titles I, VII, and X of Public

Law 89-10 are codified in Chapter 70 of Title 20 of the U.S. Code. Titles II, III, IV, V, VI, VIII, and IX of Public Law 89-10 were repealed by 20 U.S.C. § 3863(a).

6-11-116. Standards for priority of projects.

(a) The State Board of Education is granted authority to prescribe principles, standards, and criteria to be followed in setting up priority of projects, provided that such principles, standards, and criteria are not in conflict with federal statutes.

(b) Such principles, standards, and criteria shall include the following factors which shall be given priority over other considerations so long as they are not in conflict with the federal statutes:

(1) The relative condition of facilities within a school district, taking into consideration the age and condition of school buildings and facilities and the need for replacement or repair thereof to properly accommodate the school population of the school district and to protect the health and safety of the school children;

(2) The relative financial ability of school districts to provide facilities with local taxes;

(3) The adequacy of satisfactory facilities within feasible transportation distances of children within a school district or county; and

(4) The relative debt service obligations of districts in proportion to the statutory limitations on bonded indebtedness of school districts.

History. Acts 1955, No. 88, § 3; A.S.A. 1947, § 80-142.

CASE NOTES

Cited: Little Rock Sch. Dist. v. Pulaski County Special Sch. Dist., 597 F. Supp. 1220 (E.D. Ark. 1984).

6-11-117. Copies of documents as evidence.

Copies of any papers or documents on file in the office of the Commissioner of Education authenticated by him or her with the seal of the State Board of Education shall be admissible in evidence with the same effect as the original.

History. Acts 1931, No. 169, § 26; 121; Acts 1987, No. 771, § 10; 1999, No. Pope's Dig., § 11465; A.S.A. 1947, § 80- 1323, § 15.

RESEARCH REFERENCES

Ark. L. Rev. Documentary Evidence — Arkansas, 15 Ark. L. Rev. 79.

6-11-118. [Repealed.]

Publisher's Notes. This section, concerning the Office of Rural Services, was repealed by Acts 2007, No. 1573, § 43. The section was derived from Acts 1981,

No. 682, §§ 1-4; A.S.A. 1947, §§ 80-5401 — 80-5404; Acts 1995, No. 1296, § 13; 1999, No. 1078, § 3; 2005, No. 2190, § 2.

6-11-119. Correspondence courses.

(a) The State Board of Education shall promulgate reasonable rules, regulations, and standards for the accreditation of persons, firms, schools, or educational institutions offering correspondence courses to the people of this state and may grant certificates of approval to those persons, firms, schools, or educational institutions offering correspondence courses that meet the approval of its rules, regulations, and standards.

(b) It shall be unlawful for any person, firm, school, or educational institution to advertise by newspaper, magazine, pamphlet, handbill, or other printed method published in this state or by radio or by television in this state the offering of any correspondence courses unless that person, firm, school, or educational institution shall have first registered with the State Board of Education and shall have been approved by the State Board of Education as an accredited correspondence school.

(c)(1) The provisions of this section shall be applicable to all schools or educational institutions offering correspondence courses whether the schools are located in this state or in some other state.

(2) However, these provisions shall not apply to those schools or educational institutions regulated by the State Board of Private Career Education or by the Arkansas Higher Education Coordinating Board.

(d) Any person violating this section shall be guilty of a violation and upon conviction shall be fined in the sum of not less than two hundred fifty dollars (\$250) and not more than five hundred dollars (\$500).

History. Acts 1963, No. 516, §§ 1-3; A.S.A. 1947, §§ 80-143 — 80-145; Acts 1999, No. 1124, § 1; 2005, No. 1994, § 60.

Publisher's Notes. This section may be affected by § 6-51-601 et seq.

Amendments. The 2005 amendment

substituted "violation" for "misdemeanor" in (d).

Cross References. Private resident and correspondence schools, § 6-51-601 et seq.

6-11-120. Educational programs for children in institutions.

(a) The State Board of Education is authorized to provide supervision, accreditation, and other services essential to the development of desirable educational programs for children at the elementary and secondary levels who are residents in institutions under the control of a public board or commission.

(b) The State Board of Education at its discretion may enter into formal contracts or other agreements with publicly controlled institutions or with local school district boards for the purpose of serving the

educational needs of children resident in such institutions or local school districts.

(c) The State Board of Education is authorized to take any and all action necessary to qualify children resident in such institutions or school districts for all benefits available under the provisions of Pub. L. No. 89-10, as amended by Pub. L. No. 89-313 and Pub. L. No. 89-750.

(d) Authorizations contained in this section shall include any subsequent amendments which may be enacted by Congress, provided the amendments are not in conflict with the Constitution or statutes of the State of Arkansas.

History. Acts 1968 (1st Ex. Sess.), No. 67, §§ 1-4; A.S.A. 1947, §§ 80-146 — 80-149.

U.S. Code. Public Law 89-10, as

amended by Public Law 89-313 and Public Law 89-750, may be found throughout Title 20 of the U.S. Code.

6-11-121, 6-11-122. [Repealed.]

Publisher's Notes. Former §§ 6-11-121 and 6-11-122, concerning the National Migrant Student Record Transfer System and the publication of public school laws and an advisory committee, were repealed by Acts 1999, No. 100, §§ 2, 3. They were derived from the following sources:

6-11-121. Acts 1977, No. 262, § 1; A.S.A. 1947, § 80-159.

6-11-122. Acts 1985, No. 963, §§ 1, 2; A.S.A. 1947, §§ 80-160, 80-161.

6-11-123. [Repealed.]

Publisher's Notes. This section, concerning free railroad passes for directors, was repealed by Acts 1993, No. 294, § 4.

The section was derived from Acts 1907, No. 233, § 2.

6-11-124. Statewide computer network.

(a)(1) Acts 1991, No. 1034, authorizes the Board of Trustees of the Arkansas Teacher Retirement System to provide a loan to the Department of Education for a statewide computer system capable of linking all public school systems and the department.

(2) In order to provide alternatives to accomplish the purposes of Acts 1991, No. 1034, the department is hereby authorized to enter into a contractual agreement with IMPAC Learning Systems, Inc., for the development of a statewide computer system capable of linking all public school systems and the department from funds provided by a loan from the Arkansas Teacher Retirement System.

(b) The State Board of Education shall maintain oversight authority over the approval of all standards, procedures, and specifications determined by the department regarding the purchase or lease of the statewide computer network in addition to maintaining oversight authority over the operational aspects of the system.

(c) The director is hereby authorized to request from the Chief Fiscal Officer of the State a transfer of appropriation authorized for school district management and statewide data collection by the General

Assembly to any other line item appropriation authorized for the department for the same purpose.

History. Acts 1992 (1st Ex. Sess.), No. 4, §§ 1-4; 1999, No. 98, § 1; 2005, No. 1936, § 3.

A.C.R.C. Notes. As amended by Acts 1999, No. 98, § 1, subdivision (c)(1)(A)(iv) also provided: "The first three (3) citizen members shall serve staggered terms, determined by lot so that one (1) serves a one (1) year term, one (1) serves a two (2) year term, and the other serves a three (3) year term."

As amended by Acts 1999, No. 98, § 1, subdivision (c)(1)(A)(v) also provided: "Such members shall serve staggered terms determined by lot so that one (1) serves a one (1) year term, one (1) serves a two (2) year term, and the other serves a three (3) year term."

Acts 1991, No. 1034, § 1, as amended by Acts 1995, No. 1357, § 1, provided: "(a) The Board of Trustees of the Arkansas Teacher Retirement System is authorized

to loan to the Department of Education, from the Teacher Retirement Trust Fund, sufficient funds not to exceed twenty-five million dollars (\$25,000,000) for a state-wide computer system capable of linking all public school systems and the State Department of Education.

"(b) Such loan shall be under the terms as agreed upon by the Board of Trustees of the Arkansas Teacher Retirement System and the State Board of Education, with repayment of principal and interest to begin on July 1, 1997. Interest for the loan shall be at the rate of eight percent (8%).

"(c) The Department of Education shall determine the specifications for the computer system to be purchased with the loan."

Amendments. The 2005 amendment deleted former (c); and redesignated former (d) as present (c).

6-11-125. Legislative intent regarding information technology.

(a) The General Assembly finds that the State of Arkansas has provided the encouragement and the financial means to build a foundation for an information technology network linking local school districts and the Department of Education. The General Assembly further finds that the amount of information that local school districts and their personnel are required to furnish the department, while essential, has become increasingly burdensome. The General Assembly therefore expresses its intent and commitment to ensuring that the department utilizes and continually upgrades to the fullest extent possible the information technology network linking the various school districts and the department.

(b) The State Board of Education, acting through the department, shall use every means available to eliminate the amount of paperwork required by state law and regulations to be reported from each local school district by utilizing to the fullest extent possible, beginning no later than July 1, 1998, the information technology network linking local school districts and the department.

History. Acts 1997, No. 249, §§ 1, 2; 1999, No. 1323, § 16.

A.C.R.C. Notes. Former § 6-11-126 was codified as § 6-11-125(b) in 1999.

6-11-126. Computer funds approval.

Before the Department of Education obligates any funds for the purchase or lease of a computer for the Arkansas Public School

Computer Network, the department shall first seek prior review from the Joint Interim Oversight Subcommittee on Educational Reform.

History. Acts 1997, No. 1362, § 26; 1999, No. 1429, § 23.

A.C.R.C. Notes. Former § 6-11-127 was codified as § 6-11-126 in 1999.

Publisher's Notes. Former § 6-11-128 was identical to present § 6-11-126 and has been merged with § 6-11-126.

6-11-127. School district boundaries.

The Commissioner of Education shall keep records showing descriptions of each school district in the state, a map showing the school districts with their boundaries, the location of the schoolhouses, and the electoral zones, if any, into which each school district has been divided.

History. Acts 1999, No. 1078, § 4.

A.C.R.C. Notes. Former § 6-11-127 was codified as § 6-11-126 in 1999.

Effective Dates. Acts 1999, No. 1078, § 92: July 1, 2000.

6-11-128. Arkansas Public School Computer Network.

(a)(1) As used in this section, "Arkansas Public School Computer Network" or "APSCN" means the Department of Education's computer network system for public school district reporting of financial management data and student management data to the Department of Education.

(2) All school districts and education service cooperatives shall, as a minimum, use the following financial management systems applications of the Arkansas Public School Computer Network:

- (A) Fund accounting, including all activity funds;
- (B) Budget preparation;
- (C) Human resources; and
- (D) Fixed assets.

(b) After approval by the Department of Education, a school district may use a different software system at the school district level if:

(1) The Department of Education determines that the school district's software meets the minimum reporting requirements provided by the Arkansas Public School Computer Network; and

(2) The school district supplies all school district transaction information to the Arkansas Public School Computer Network in a compatible format and in sufficient detail as required by the Department of Education.

(c) The Department of Education shall implement the use of policies, procedures, and personnel to provide for data quality and security with the Arkansas Public School Computer Network, including without limitation the following:

(1) Periodically conducting a thorough security review and security risk assessment for all information, including without limitation personally identifiable employee and student information, that originates in the school districts and terminates on Department of Information Systems and Arkansas Public School Computer Network servers;

- (2) Creating security plans, policies, and procedures;
- (3) Monitoring the mechanism for the network's end-to-end, enterprise-wide financial and student information systems;
- (4) Creating and maintaining a process for documenting and monitoring the quality of data from its source of entry into the network to any educational data repository in the Department of Education; and
- (5) Establishing standards and monitor compliance with standards for all software and data testing in the network;
- (6)(A) Developing a certification program to certify:
 - (i) At least one (1) person in each school district as a certified APSCN financials user and trainer; and
 - (ii) At least one (1) person in each school district as a certified APSCN student management user and trainer.
- (B) The certification process shall require an applicant for certification to successfully complete the following components, including without limitation:
 - (i) Courses in the application area;
 - (ii) Training in using the network's reporting tools; and
 - (iii) An examination that tests the applicant's knowledge and skills in the application area and the Arkansas Public School Computer Network's reporting tools.
- (C) In a school district of five hundred (500) or fewer students, one (1) person may be certified in both financials and student management; and
- (7) Developing a data quality metrics program designed to significantly reduce the number of data errors within the Arkansas Public School Computer Network's applications and data warehouse and provide reports on code changes and time availability of information, including without limitation:
 - (A) The number of code changes made in mid-year;
 - (B) The percent of prime time availability of all applications that feed data into the network and data warehouse;
 - (C) The percent of time availability of each school district server and local area network for use with the Arkansas Public School Computer Network's availability;
 - (D) Corrective actions taken on the Arkansas Public School Computer Network's applications and data warehouse;
 - (E) Preventive actions taken to avoid downtime and data errors;
 - (F) Cycle data tardiness; and
 - (G) Number of data corrections made during each cycle submission.
- (d)(1)(A) Beginning with the 2007-2008 school year, the Department of Education shall:
 - (i) Collect data from public school districts on full-time equivalents and average teachers' salaries by July 31 of each year;
 - (ii) Collect actual revenue and expenditure data not later than August 31 of each year; and
 - (iii) Require budget reporting not earlier than September 30 of each year.

(B) The Arkansas Public School Computer Network shall have the programs necessary to collect the data in this subdivision (d)(1) available not less than thirty (30) days prior to the date public school districts are required to submit the data.

(2)(A) Beginning with the 2008-2009 school year, the Department of Education shall release monthly from the Arkansas Public School Computer Network selected financial and student management data submitted by public school districts for the previous month.

(B) The General Assembly and the Department of Education shall determine by mutual agreement what financial and student management data will be selected for the monthly release.

(C) The Department of Education shall make the information available to the General Assembly in the Arkansas Public School Computer Network data warehouse by the tenth business day of each month.

History. Acts 2003, No. 1097, § 1; 2003, No. 1769, § 1; 2007, No. 617 § 3; 2007, No. 723, § 1; 2007, No. 724, § 1.

A.C.R.C. Notes. Acts 2003, No. 1097, § 1 and No. 1769, § 1, were identical and both enacted this section.

Publisher's Notes. Former § 6-11-128 was identical to present § 6-11-126 and has been merged with that section.

Amendments. The 2007 amendment by No. 617 substituted "education service cooperative" for "educational cooperative" in (a).

The 2007 amendment by No. 723 added (a)(1); redesignated former (a) as present (a)(2); substituted "All" for "Beginning with the 2003-2004 fiscal year, all" in (a)(2); redesignated former (a)(1) through (a)(4) as present (a)(2)(A) through (a)(2)(D); substituted "department" for "Department of Education" in (b); and added (c).

The 2007 amendment by No. 724 added the subsection designated herein as (d).

6-11-129. Data to be accessible on website.

(a)(1) Each school district shall make the following information and data easily identified on its website:

(A) Current comprehensive financial data reports for school districts, including:

- (i) Local and state revenue sources;
- (ii) Administrator and teacher salary and benefit data;
- (iii) School district balances, including legal balances and building fund balances;
- (iv) Any additional financial data;
- (v) Administrative salary and benefit expenditures; and
- (vi) Teacher salary expenditures;

(B) Each school district's personnel policies required under § 6-17-201 et seq.;

(C)(i) Information from the school district's contracts with school district employees and school district salary schedules.

(ii) Each school district or the school district's education service cooperative, if the education service cooperative maintains the school district's website, shall publish on the school district's website:

(a) The school district's current contract information with all school district employees, except that no social security numbers, phone numbers, personal addresses, or signatures shall be published; and

(b) The school district salary schedules, including the salary schedules for regular licensed employees, supplemental and extended contract schedules, and classified employee schedules; and

(D) The annual budget of each school district.

(2) Information and data required to be made available and easily accessible on the school district's website under this section shall be the actual data for the two (2) previous school years and the projected budgeted information for the current school year.

(b) The department shall make the information and data required by this section available and easily accessible on the department's website by including direct links to the websites of all Arkansas school districts on the department's website.

History. Acts 2003, No. 1802, § 1; 2003 (2nd Ex. Sess.), No. 50, § 1; 2005, No. 2121, § 2; 2007, No. 54, § 1; 2007, No. 617, § 4; 2007, No. 1573, §§ 1, 48.

A.C.R.C. Notes. Pursuant to § 1-2-207, § 6-11-129(a)(2) is set out above as amended by Acts 2007, No. 1573, § 1. This subdivision was also amended by Acts 2007, No. 54, § 1 to read as follows: "(2) Information and data required to be made available and easily accessible on the department's website under subdivisions (a)(1)(A)(i)-(iii), (v), and (vi) and subdivisions (a)(1)(B) and (C) of this section shall be the actual data for the two (2) previous school years and the projected budgeted information for the current school year."

Acts 2007, No. 1573, § 1 amended § 6-11-129(b) while Acts 2007, No. 1573, § 48 repealed § 6-11-129(b). This section has been set out above to reflect the repeal of subsection (b) by Acts 2007, No. 1573, § 48.

Amendments. The 2005 amendment inserted the subsection (a) designation; in present (a), deleted "Before January 1, 2004" at the beginning and substituted "on the ... department's website" for "on its website"; added "including ... fund bal-

ances" in (a)(1)(C); added "information from" in (a)(3)(A); deleted "Beginning January 1, 2005" from the beginning of (a)(5); and added (b).

The 2007 amendment by No. 54 rewrote (a).

The 2007 amendment by No. 617, in (a)(1)(C)(ii), substituted "education service cooperative" for "educational cooperative" and substituted "education service" for "cooperative."

The 2007 amendment by No. 1573 substituted "website" for "Department of Education website" in the section heading; rewrote the introductory language in (a); substituted "Information" for "Links to the local district's website containing information" in (a)(3)(A); in (a)(3)(B)(i), substituted "contract information" for "contracts" and inserted "phone numbers, or personal addresses"; substituted "licensed employees" for "certified employees" in (a)(3)(B)(ii); substituted "school district's website under this section" for "department's website under subdivisions (a)(1)(A)-(C), (E), and (F) and subdivisions (a)(2) and (3) of this section" in (a)(5); substituted "Department of Education" for "department" in (b); then repealed (b); and added (c).

6-11-130. [Repealed.]

Publisher's Notes. This section, concerning custodial and maintenance care for school facilities, was repealed by Acts

2005, No. 1426, § 6. The section was derived from Acts 2003 (2nd Ex. Sess.), No. 87, § 1.

6-11-131. Divisions of the Department of Education.

(a)(1) Effective July 1, 2005, the Department of Education shall consist of a central administration and the following divisions:

- (A) The Division of Fiscal and Administrative Services;
- (B) The Division of Human Resources;
- (C) The Division of Learning Services; and
- (D) The Division of Research and Technology.

(2) Effective April 11, 2006, the Division of Public School Academic Facilities and Transportation, established under § 6-21-112, shall be under the department.

(3) Effective July 1, 2007, the Division of Public School Accountability, established under § 6-15-102, shall be under the department.

(b)(1) The Division of Public School Accountability shall have such duties as provided by law.

(2) The Division of Public School Academic Facilities and Transportation shall have duties as provided by law and such responsibility and programs as may be assigned by the Commission for Arkansas Public School Academic Facilities and Transportation.

(3) The remaining divisions shall have such responsibility and programs as may be assigned to them by the Commissioner of Education.

(c)(1) Except as provided in subdivision (c)(2) of this section, each division of the department shall be under the direction, control, and supervision of the Commissioner of Education.

(2) The Division of Public School Academic Facilities and Transportation shall be under the direction, control, and supervision of the Commission for Arkansas Public School Academic Facilities and Transportation.

History. Acts 2005, No. 1672, § 3; 2006 (1st Ex. Sess.), No. 32, § 1; 2006 (1st Ex. Sess.), No. 33, § 1.

Amendments. The 2006 (1st Ex. Sess.) amendment by identical acts Nos. 32 and 33 rewrote former (a)(2) as present (a)(2) and (a)(3); deleted “and the Division of

Research and Technology” following “Accountability” in (b)(1); inserted present (b)(2) and redesignated former (b)(2) as present (b)(3); added “Except as provided in subdivision (c)(2) of this section” at the beginning of present (c)(1); and added (c)(2).

6-11-132. Financial impact statements for administrative rules.

(a)(1) Except as provided in subsection (b) of this section, for each rule promulgated by the State Board of Education or the State Board of Workforce Education and Career Opportunities under the Arkansas Administrative Procedure Act, § 25-15-201 et seq., the board promulgating the rule shall file a financial impact statement with the Bureau of Legislative Research.

(2) The scope of the financial impact statement shall be determined by the board promulgating the rule but shall include, at a minimum, a public school district’s estimated cost to comply with and implement the rule.

(3) This subsection applies to an emergency rule for permanent adoption.

(b) For each emergency rule not for permanent adoption, if the State Board of Education or the State Board of Workforce Education and Career Opportunities has reason to believe that the development of a financial impact statement for the emergency rule promulgated by it will be so speculative as to be cost prohibitive, the board promulgating the rule shall submit to the bureau a statement and explanation to that effect.

(c) Neither the State Board of Education nor the State Board of Workforce Education and Career Opportunities shall promulgate a rule with respect to which it has not complied with this section.

History. Acts 2006 (1st Ex. Sess.), No. 38, § 1; 2007, No. 827, § 113.

Amendments. The 2007 amendment rewrote the section.

SUBCHAPTER 2 — STATE BOARD OF WORKFORCE EDUCATION AND CAREER OPPORTUNITIES

SECTION.	SECTION.
6-11-201. Director of the Department of Workforce Education.	6-11-206. Federal aid — Receipt and administration for school facilities.
6-11-202. Records of proceedings.	6-11-207. Power to make plans coordinating state and federal laws.
6-11-203. Vocational education.	
6-11-204. Official seal — Copies of documents as evidence.	
6-11-205. Federal aid — Acceptance and distribution generally.	

6-11-201. Director of the Department of Workforce Education.

(a)(1) The Director of the Department of Workforce Education, or a disbursing agent designated by him or her and approved by the State Board of Workforce Education and Career Opportunities, shall give bond to the State of Arkansas as provided by law for other disbursing agents conditioned for the faithful performance of his or her duties and the faithful accounting for all the school money of the state, of any county, or of any school district that may come into his or her hands.

(2) The bond shall be in a solvent surety company having a right to do business in the State of Arkansas and shall be approved by the board.

(3) The premium on the bond shall be paid by the board as one of the expenses of the board.

(b) The state shall furnish the director with suitable offices.

History. Acts 1999, No. 1323, § 17.

6-11-202. Records of proceedings.

The State Board of Workforce Education and Career Opportunities shall keep in the office of the Director of the Department of Workforce Education a complete record of the minutes of its meetings and other proceedings.

History. Acts 1999, No. 1323, § 17.

6-11-203. Vocational education.

The State Board of Workforce Education and Career Opportunities shall have general supervision of vocational education in the state and shall administer and apportion any funds that may come to the state for that purpose.

History. Acts 1999, No. 1323, § 17.

6-11-204. Official seal — Copies of documents as evidence.

(a) The State Board of Workforce Education and Career Opportunities shall adopt a seal, and the seal shall be used by the Director of the Department of Workforce Education to authenticate documents or copies of documents as the board or director may deem advisable.

(b) Copies of any papers or documents on file in the offices of the director authenticated by him or her with the seal of the board shall be admissible in evidence with the same effect as the original.

History. Acts 1999, No. 1323, § 17.

6-11-205. Federal aid — Acceptance and distribution generally.

(a)(1) The General Assembly accepts all federal aid to education that may be provided by Congress.

(2) The State Board of Workforce Education and Career Opportunities is designated as the state educational authority for the purpose of representing the state in the administration of funds provided by Congress.

(3) The board is empowered to promulgate regulations as are necessary on the part of the state to meet any and all requirements of the federal government in the distribution of federal aid.

(4) The board shall provide for the proper auditing and accounting of all federal funds and for making all necessary reports regarding the expenditures of the federal funds.

(5) The board shall perform other functions as may be prescribed by the act providing aid.

(b) The Treasurer of State is designated to serve as trustee for such funds as may be apportioned to the State of Arkansas in this connection.

(c) The funds shall be disbursed according to the provisions of the federal act allocating them.

History. Acts 1999, No. 1323, § 17.

6-11-206. Federal aid — Receipt and administration for school facilities.

The State Board of Workforce Education and Career Opportunities is designated to receive and administer any and all federal funds made available to this state for the purpose of assisting local school districts in providing elementary and secondary school facilities for vocational and adult education programs.

History. Acts 1999, No. 1323, § 17.

6-11-207. Power to make plans coordinating state and federal laws.

The State Board of Workforce Education and Career Opportunities is empowered to make plans, rules, and regulations as are necessary in order for this state to meet the requirements of any law enacted by Congress for vocational-technical education or any supplementary federal regulations pertaining to that legislation.

History. Acts 1999, No. 1323, § 17.

CHAPTER 12
COUNTY BOARDS OF EDUCATION

SUBCHAPTER.

- 1. GENERAL PROVISIONS.
- 2. COUNTY SCHOOL SUPERVISOR. [REPEALED.]
- 3. RIGHTS AND DUTIES.

RESEARCH REFERENCES

Am. Jur. 68 Am. Jur. 2d, Schools, § 37 **C.J.S.** 78 C.J.S., Schools, § 92 et seq. et seq.

SUBCHAPTER 1 — GENERAL PROVISIONS

SECTION.

- 6-12-101 — 6-12-111. [Repealed.]
- 6-12-112. Audit of school district fiscal affairs.
- 6-12-113. [Repealed.]

SECTION.

- 6-12-114. Implementation.
- 6-12-115. Legislative intent.
- 6-12-116. Limitation on civil actions.

Effective Dates. Acts 1925, No. 183, § 4: Mar. 21, 1925. Acts 1931, No. 169, § 198: approved Mar. 25, 1931. Emergency clause pro-

vided: "It is found as a fact that the advent of the automobile, and the great improvement in the roads of the State have worked great changes in the system of administering the public schools of the State, and there is occasion to change the boundaries of many such districts before the end of the current school term, to relieve many of them of pressing indebtedness, to immediately administer to the health of many pupils in the schools, and to distribute State Funds to many of the schools in the near future to prevent some of them from having to close for the lack of funds; therefore, it is necessary that this act take immediate effect for the preservation of public peace, health, and safety; therefore, an emergency is declared and this act shall take effect and be in force immediately after its passage."

Acts 1941, No. 327, § 21: approved Mar. 26, 1941. Emergency clause provided: "It is found and declared by the General Assembly that all agencies of government are now being called on to at once render the maximum service in the national defense; that the rural schools of Arkansas need immediate supervision to enable them to render more effective the service in the defense program and to take advantage of the profits offered to rural areas by the national government; that the making of budgets and otherwise developing plans for the next school year must be well advanced prior to July 1, 1941, or the program will have to be deferred to the next succeeding school term, and that it is therefore necessary for the public peace, health and safety that this act become effective without delay; an emergency is therefore hereby declared and this act shall take effect and be in force from and after its passage."

Acts 1947, No. 400, § 2: Mar. 28, 1947. Emergency clause provided: "It having been ascertained that there are large amounts of surplus property now available from government agencies and that the acquisition of such property can be expedited through cooperative action, it is hereby determined that it is necessary for the preservation of public peace, health, and safety that the provisions of this act be made effective at once. Therefore, an emergency is hereby declared to exist and the provisions of this act shall be in effect immediately upon its passage and approval."

Acts 1953, No. 229, § 3: Mar. 6, 1953. Emergency clause provided: "It being ascertained that the present law requires an election of a county board member from each of four (4) zones and one (1) from a rural district or a district not employing a superintendent, and many counties in the State not now having either a rural district as defined by law, or a district not employing a superintendent, resulting in an untenable condition with reference to the election of the fifth member of county boards, and the validity of the election of such member being in doubt, this act is declared to be necessary for the promotion of the public school system of the State of Arkansas, an emergency is hereby declared to exist and this act shall be in full force and effect from and after its passage and approval."

Acts 1999, No. 1078, § 92: July 1, 2000.

Acts 2001, No. 1036, § 5: Mar. 22, 2001. Emergency clause provided: "It is found and determined by the General Assembly that Act 1078 of 1999 created confusion regarding the powers and duties of county boards of education; and the confusion has made it difficult for existing county boards of education to provide essential services to public schools in the state. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 2005, No. 2190, § 24: Apr. 13, 2005. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the services of the county boards of education are no longer needed by the school districts; that there will be no funding available for the operation of the county boards of education; and that this act is immediately necessary because county boards of education need sufficient authority to transfer functions, duties, and records prior the end of the fiscal year. Therefore, an emergency is declared to exist and this act being immediately necessary for the

preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of

the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

CASE NOTES

Sebastian County.

Sebastian County is one unit for the

purposes of this subchapter. Reeves v. Been, 217 Ark. 67, 228 S.W.2d 609 (1950).

6-12-101 — 6-12-111. [Repealed.]

Publisher's Notes. Sections 6-12-101 — 6-12-111, concerning creation of boards in counties with fewer than five school districts, candidates, zones, oath, organization, meetings, schools under board supervision, superintendent, powers and duties, purchase of government property, appeal, and bond, were repealed by Acts 1999, No. 1078, §§ 5-15, effective July 1, 2000. The sections were derived from the following sources:

6-12-101. Acts 1941, No. 327, §§ 1, 5, 9; 1953, No. 229, § 1; A.S.A. 1947, §§ 80-201, 80-205, 80-211; Acts 1993, No. 202, § 1.

6-12-102. Acts 1983, No. 557, § 1; A.S.A. 1947, § 80-203.1; Acts 1993, No. 294, § 5.

6-12-103. Acts 1941, No. 327, § 4; A.S.A. 1947, § 80-204; Acts 1993, No. 202, § 2.

6-12-104. Acts 1941, No. 327, § 3; 1949, No. 146, § 4; 1953, No. 229, § 2; A.S.A. 1947, § 80-203, 80-232.

6-12-105. Acts 1941, No. 327, § 7; A.S.A. 1947, § 80-209.

6-12-106. Acts 1941, No. 327, § 8; A.S.A. 1947, § 80-210; Acts 1993, No. 294, § 5.

6-12-107. Acts 1941, No. 327, § 10; A.S.A. 1947, § 80-212.

6-12-108. Acts 1941, No. 327, § 2; A.S.A. 1947, § 80-202; Acts 1993, No. 294, § 5.

6-12-109. Acts 1931, No. 169, § 34; Pope's Dig., § 11472; Acts 1941, No. 327, § 11; 1981, No. 436, § 2; A.S.A. 1947, §§ 80-213, 80-216; Acts 1993, No. 294, § 5.

6-12-110. Acts 1947, No. 400, § 1; A.S.A. 1947, § 80-214.

6-12-111. Acts 1925, No. 183, §§ 1, 2; A.S.A. 1947, §§ 80-236, 80-237.

6-12-112. Audit of school district fiscal affairs.

(a) Any school district is authorized to provide for an audit of its fiscal affairs by a competent accountant.

(b) Authority is given to the Division of Legislative Audit to audit the books of any school district in the state upon the request of a fiscal officer or school district, county, or state school official.

(c) In cases of undue demands upon the division for these audits, the office will be considered justified in charging a fee for the service rendered, the fee not to be in excess of payments made for help employed in the audit in addition to the legally provided personnel of the office.

History. Acts 1941, No. 327, § 12; A.S.A. 1947, § 80-215; Acts 2005, No. 2190, § 3.

Amendments. The 2005 amendment deleted “county board member,” preceding “fiscal officer” in (b).

6-12-113. [Repealed.]

Publisher’s Notes. This section, concerning opportunity schools, was repealed by Acts 1993, No. 294, § 5. The section

was derived from Acts 1931, No. 249, §§ 1, 2; Pope’s Dig., §§ 11645, 11646; A.S.A. 1947, §§ 80-227, 80-228.

6-12-114. Implementation.

(a) By June 30, 2005, all county boards of education shall transfer all records, written or electronic, to the respective county clerk, the respective county quorum court, the State Board of Workforce Education and Career Opportunities, the Department of Workforce Education, the State Board of Education, or the Department of Education, whichever may be appropriate.

(b)(1) Any and all funds received via an award or grant under the control of the county board that is abolished, the county board designee, or the county school supervisor whose position was abolished, the use of which is restricted by the terms of the award or grant under which the moneys were received, shall revert to the agency that awarded the funds unless otherwise specified in the terms of the award or grant.

(2) Any and all funds under the control of any county board that is abolished, county board designee, or county school supervisor whose position was abolished shall first be used to satisfy all legal debts and obligations of the county board, and all remaining funds shall revert to the common or general school fund of the respective county for redistribution to the school districts domiciled in that county in accordance with existing law.

(c)(1)(A) Any and all real and personal property belonging to the county board that is abolished shall first be sold at public auction if after the implementation of subsection (b) of this section there are still legal debts and obligations.

(B) If any excess moneys from such an auction exist after the payments of legal debts and obligations, those excess moneys shall be distributed according to subdivision (b)(2) of this section.

(2)(A) If no legal debts or obligations exist after the implementation of subsection (b) of this section, any and all real and personal property of the county board shall become the property of the local school district that contains the county seat of government until such time that all school districts domiciled in the county have entered into a written agreement as to the disposition of the real and personal property of the county board.

(B) The written agreement must be finalized within twelve (12) months after July 1, 2005.

(d)(1) The provisions in subsection (b) and (c) of this section shall not include nor apply to any funds, written or electronic records, or real or personal property, or both real and personal property, belonging to or

purchased with funding for adult education programs or general educational development testing centers supported through state or federal adult education funds, or both state and federal adult education funds.

(2) All such funds, written or electronic records, or real or personal property, or both real and personal property, including applicable real estate titles, will be transferred to the State Board of Workforce Education and Career Opportunities or any eligible entity approved by the State Board of Workforce Education and Career Opportunities.

History. Acts 1999, No. 1078, § 90; 2001, No. 1036, § 2; 2005, No. 2190, § 4.

Amendments. The 2005 amendment substituted "By June 30, 2005 all county boards of education" for "Except as set forth in subdivision (a)(2) of this subsection, all county boards of education in existence prior to July 1, 2000" in (a); deleted former (a)(2); deleted "under subsection (a) of this section" following "abol-

ished" throughout (b) and in (c)(1)(A); inserted "that is" in (b)(1), (b)(2) and (c)(1)(A); substituted "July 1, 2005" for "July 1, 2000" in (c)(2)(B); and substituted "subsection (b)" for "subdivision (a)(1)" in (d)(1).

Effective Dates. Acts 1999, No. 1078, § 92 provided: "This act will go into effect on July 1, 2000."

RESEARCH REFERENCES

U. Ark. Little Rock L. Rev. Survey of Legislation, 2001 Arkansas General As-

sembly, Education Law, 24 U. Ark. Little Rock L. Rev. 453.

6-12-115. Legislative intent.

Nothing in this act should be construed as to forbid local school districts from entering into agreements with each other to perform some of the same functions that county boards of education used to do.

History. Acts 1999, No. 1078, § 91.

Meaning of "this act". Acts 1999, No. 1078, codified as §§ 6-10-102, 6-10-103, 6-11-118, 6-11-127, 6-12-114, 6-12-115, 6-13-102, 6-13-104, 6-13-109, 6-13-110, 6-13-604, 6-13-606, 6-13-608, 6-13-611, 6-13-613, 6-13-620, 6-13-631, 6-13-634, 6-13-701, 6-13-1201 — 6-13-1204, 6-13-1206 — 6-13-1209, 6-14-102, 6-14-111, 6-14-116, 6-14-121, 6-16-118, 6-17-104,

6-17-305, 6-17-401, 6-17-408, 6-17-907, 6-17-911 — 6-17-914, 6-17-918 — 6-17-920, 6-18-213, 6-18-219, 6-18-307, 6-18-802, 6-19-102, 6-20-216, 6-20-217, 6-20-403, 6-20-1213, 6-20-1609, 6-21-410, 6-21-602, 6-41-313, 6-51-215, 19-7-402, 19-7-409, 26-36-209, 26-80-104.

Effective Dates. Acts 1999, No. 1078, § 92 provided: "This act will go into effect on July 1, 2000."

6-12-116. Limitation on civil actions.

(a)(1) Any civil action brought against any abolished county board of education or its members, school supervisor, designee, or employee in his or her official capacity must be commenced within one (1) year after the abolishment of the county board of education or one (1) year after the cause of action accrues, whichever occurs first.

(2) A cause of action accrues on the date of occurrence of the violation regardless of the aggrieved party's lack of knowledge of the violation.

(b)(1) Beginning on April 13, 2005, notwithstanding any other provision of law, no county board of education or county supervisor shall enter into or renew any personal, professional, employment, or other service contract or any other contract without the prior written approval of the State Board of Education or the Commissioner of Education.

(2) Any personal, professional, employment, or other service contract or any other contract entered into by a county board of education or county supervisor on behalf of the county board on or after April 13, 2005, shall be void unless such a contract or contractual obligation was approved in writing by the commissioner.

History. Acts 2001, No. 1036, § 4; 2005, No. 2190, § 5.

Amendments. The 2005 amendment added (b).

SUBCHAPTER 2 — COUNTY SCHOOL SUPERVISOR

SECTION.

6-12-201 — 6-12-209. [Repealed.]

6-12-201 — 6-12-209. [Repealed.]

Publisher's Notes. This subchapter was repealed by Acts 1999, No. 1078, §§ 16-24. The subchapter was derived from the following sources:

6-12-201. Acts 1941, No. 327, § 13; 1949, No. 146, § 3; 1977, No. 46, §§ 1, 2; A.S.A. 1947, §§ 80-217, 80-231; Acts 1993, No. 294, § 5.

6-12-202. Acts 1941, No. 327, § 17; A.S.A. 1947, § 80-220.

6-12-203. Acts 1941, No. 327, § 14; A.S.A. 1947, § 80-218.

6-12-204. Acts 1941, No. 327, § 18; A.S.A. 1947, § 80-225.

6-12-205. Acts 1941, No. 327, §§ 12, 18;

1949, No. 146, §§ 6, 7; A.S.A. 1947, §§ 80-215, 80-225, 80-233, 80-234.

6-12-206. Acts 1931, No. 169, § 39; A.S.A. 1947, § 80-226.

6-12-207. Acts 1941, No. 327, §§ 15, 17; 1949, No. 146, §§ 1, 2; A.S.A. 1947, §§ 80-220, 80-229, 80-230; Acts 1993, No. 470, § 2; 1995, No. 1296, § 14.

6-12-208. Acts 1941, No. 327, § 15; A.S.A. 1947, § 80-219.

6-12-209. Acts 1957, No. 159, § 1; 1975, No. 272, §§ 1, 2; 1975, No. 478, §§ 1, 2; A.S.A. 1947, §§ 80-235, 80-235.2.

Effective Dates. Acts 1999, No. 1078, § 92: July 1, 2000.

SUBCHAPTER 3 — RIGHTS AND DUTIES

SECTION.

6-12-301 — 6-12-314. [Repealed.]

6-12-315. School district coordinator.

6-12-316. Salary.

SECTION.

6-12-317. County boards of education abolished.

Effective Dates. Acts 2001, No. 1036, § 5: Mar. 22, 2001. Emergency clause provided: "It is found and determined by the General Assembly that Act 1078 of 1999 created confusion regarding the powers and duties of county boards of education; and the confusion has made it difficult for

existing county boards of education to provide essential services to public schools in the state. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its ap-

proval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 2005, No. 2190, § 24: Apr. 13, 2005. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the services of the county boards of education are no longer needed by the school districts; that there will be no funding available for the operation of the county boards of education; and that this act is immedi-

ately necessary because county boards of education need sufficient authority to transfer functions, duties, and records prior the end of the fiscal year. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

6-12-301 — 6-12-314. [Repealed.]

Publisher's Notes. Sections 6-12-301 — 6-12-314, concerning the creation, membership characteristics, membership oaths, meetings, organization, powers, duties, appeal, bond, credentials of county boards of education and the duties, salary, restrictions and office of county school supervisors and county board of education designees, were repealed by Acts 2005, No. 2190, §§ 6-19, effective July 1, 2005, by its own terms. The sections were derived from the following sources:

6-12-301. Acts 2001, No. 1036, § 3.

6-12-302. Acts 2001, No. 1036, § 3.

6-12-303. Acts 2001, No. 1036, § 3.

6-12-304. Acts 2001, No. 1036, § 3.

6-12-305. Acts 2001, No. 1036, § 3.

6-12-306. Acts 2001, No. 1036, § 3.

6-12-307. Acts 2001, No. 1036, § 3.

6-12-308. Acts 2001, No. 1036, § 3.

6-12-309. Acts 2001, No. 1036, § 3.

6-12-310. Acts 2001, No. 1036, § 3.

6-12-311. Acts 2001, No. 1036, § 3.

6-12-312. Acts 2001, No. 1036, § 3.

6-12-313. Acts 2001, No. 1036, § 3.

6-12-314. Acts 2001, No. 1036, § 3.

6-12-315. School district coordinator.

(a) Any county containing all or part of six (6) or more school districts may create:

(1) An executive council; and

(2) The position of school district coordinator if a majority of the school districts in the county pass a resolution requesting the creation of the position of school district coordinator.

(b) The executive council may be made up of one (1) superintendent from each school district in the county who may organize themselves in a manner to allow for meetings among superintendents in the county for the purpose of coordinating the business of the respective school districts in a coordinated manner within the county.

(c) The school district coordinator may:

(1) Record the certificates of teachers as required by law;

(2) Be a representative of the State Board of Education and shall perform duties as may be required by the state board;

- (3) Keep a record of the contracts made with teachers;
- (4) Assume and perform all of the duties of the county board of education or county supervisor as in existence on January 1, 2005;
- (5) Cooperate with the Department of Education in carrying out the budgetary regulations and procedures pertaining to school districts in the county as prescribed by the state board or by law;
- (6) Keep in the school district coordinator's office and file with the Board of Trustees of the Arkansas Teacher Retirement System and the state board not later than October 15 of each year a list of all teachers employed in the county for the ensuing year setting forth the type of certificate held by each teacher, the teacher's monthly contract salary, whether the teacher is a member of the Arkansas Teacher Retirement System, and other information as the state board may deem necessary;
- (7) Cause to be set aside from funds in the county general school fund amounts necessary for the expenses of the executive council; and
- (8) Perform other duties related to the school districts in the county as may be requested by the executive council.

History. Acts 2005, No. 1159, § 1.

6-12-316. Salary.

(a)(1) Each executive council may determine the salary of the school district coordinator and the allowances for travel, clerical support, office, and other expenses.

(2) The county shall provide office space and other appropriate facilities to the school district coordinator and his or her staff at the county seat free of charge as was previously provided to the county school supervisor and county board of education.

(b) The chair of the executive council may call a meeting in June each year for the consideration of these matters.

(c) All allowances for office expense, travel, and clerical support shall be based upon detailed budgets submitted by the school district coordinator and approved by the executive council.

(d) With the approval of the executive council, the school district coordinator is authorized to hire necessary clerical and other assistants.

(e) The allowances to the school district coordinator and members of the executive council for travel expense, meals, and hotels shall not be in excess of the allowance for state employees.

(f)(1) The expense allowed under this section may be paid from the unapportioned county general school fund to a special fund by the county treasurer or the common fund of the county or any other source.

(2) Payments allowed under this section shall be made only after presentation of invoices, statements, itemized expense accounts, or payroll vouchers signed by the school district coordinator and the chair of the executive council.

(g) If the person employed as the school district coordinator was previously employed in a position that was eligible to participate in the Arkansas Teacher Retirement System, the school district coordinator shall be eligible to continue to participate in the system.

History. Acts 2005, No. 1159, § 1.

6-12-317. County boards of education abolished.

All county boards of education and any personnel positions associated therewith are abolished effective July 1, 2005.

History. Acts 2005, No. 2190, § 20.

CHAPTER 13

SCHOOL DISTRICTS

SUBCHAPTER.

1. GENERAL PROVISIONS.
2. FORMATION, ALTERATION, AND CONSOLIDATION GENERALLY. [REPEALED.]
3. ALTERNATIVE CONSOLIDATION METHOD FOR TWO TO EIGHT SCHOOL DISTRICTS. [REPEALED.]
4. SUPPLEMENTARY SCHOOL DISTRICT REORGANIZATION ACT. [REPEALED.]
5. REORGANIZATION OF SMALL SCHOOL DISTRICTS GENERALLY. [REPEALED.]
6. SCHOOL DISTRICT BOARDS OF DIRECTORS GENERALLY.
7. SCHOOL DISTRICT TREASURER.
8. EDUCATIONAL COMPACTS GENERALLY.
9. PUBLIC SCHOOL EDUCATIONAL COOPERATIVE ACT.
10. EDUCATION SERVICE COOPERATIVE ACT.
11. MODEL RURAL SCHOOL CONSORTIUMS.
12. CLARIFICATION OF LAWS CONCERNING CONSOLIDATION, ANNEXATION, AND FORMATION.
13. SITE-BASED DECISION MAKING.
14. CONSOLIDATION, ANNEXATION, AND FORMATION.
15. CREATION OF SCHOOL DISTRICT BY DETACHING TERRITORY FROM EXISTING SCHOOL DISTRICT.
16. PUBLIC EDUCATION REORGANIZATION ACT.

RESEARCH REFERENCES

Am. Jur. 68 Am. Jur. 2d, Schools, § 14 **C.J.S.** 78 C.J.S., Schools, § 23 et seq.
et seq.

CASE NOTES

Legislative Control.

Legislative control over the creation and boundaries of school districts is plenary and subject only to the limitation

that legislative action shall not impair the contracts or obligations of districts. *Hughes v. Robuck*, 119 Ark. 592, 179 S.W. 163 (1915).

SUBCHAPTER 1 — GENERAL PROVISIONS

SECTION.

- 6-13-101. Only one kind of school district.
- 6-13-102. Body corporate — Name.
- 6-13-103. Power of eminent domain —
Repurchase by former
owner.
- 6-13-104. Uncertain boundaries.
- 6-13-105. School district sale of state-do-
nated lands.
- 6-13-106. [Repealed.]

SECTION.

- 6-13-107. Membership in state associa-
tion of school board of di-
rectors officials.
- 6-13-108. Sixteenth section school lands.
- 6-13-109. School superintendent.
- 6-13-110. Purchase of government prop-
erty.
- 6-13-111. Consolidated school districts.

Cross References. Exemption of realty owned by school districts from adverse possession, § 22-1-204.

Local government reserve funds, § 14-73-101 et seq.

Tort liability immunity, § 21-9-301 et seq.

Effective Dates. Acts 1929, No. 139, § 2: approved Mar. 14, 1929. Emergency declared.

Acts 1931, No. 169, § 198: approved Mar. 25, 1931. Emergency clause provided: "It is found as a fact that the advent of the automobile, and the great improvement in the roads of the State have worked great changes in the system of administering the public schools of the State, and there is occasion to change the boundaries of many such districts before the end of the current school term, to relieve many of them of pressing indebtedness, to immediately administer to the health of many pupils in the schools, and to distribute State Funds to many of the schools in the near future to prevent some of them from having to close for the lack of funds; therefore, it is necessary that this act take immediate effect for the preservation of public peace, health, and safety; therefore, an emergency is declared and this act shall take effect and be in force immediately after its passage."

Acts 1937, No. 332, § 2: approved Mar. 25, 1937. Emergency clause provided: "Whereas there are many rural school districts having pupils of high school age that are unable to furnish high school facilities for such pupils, and whereas such facilities may frequently be furnished by other districts in the immediate vicinity at a reasonable tuition per pupil if contracts therefor be authorized; and

whereas schools are now in session and it is desirable that such authority be immediately conferred, an emergency is declared to exist and this act shall take effect and be in force from and after its passage."

Acts 1969, No. 83, § 4: Feb. 21, 1969. Emergency clause provided: "It is hereby found by the General Assembly that the various boards of the public school districts of this State are vested with responsibility of managing the affairs of school districts; that due to the high turnover in school board membership positions it is essential that every effort be made to inform school board members of their respective duties, to enable school board members to keep informed on school problems in this State and to enable school boards throughout the State to cooperate in the coordination of the public school system of the State of Arkansas; and, that the immediate passage of this act is necessary to enable the school district to pay reasonable dues to a nonprofit association of school board officials established to accomplish the aforementioned objectives. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1991, No. 363, § 6: Mar. 6, 1991. Emergency clause provided: "It is hereby found and determined by the General Assembly that if a school district takes property for school use by exercise of the power of eminent domain and subsequently the school for which the property was acquired is closed, fairness and equity demands that the former owner of the prop-

erty from whom the district acquired title by eminent domain should have the option to repurchase the property from the district for the amount the district paid for the property when it acquired it by exercise of the power of eminent domain; that this act is designed to grant such option and should be given effect immediately.

Therefore, an emergency is hereby declared to exist and this act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1999, No. 1078, § 92: July 1, 2000.

6-13-101. Only one kind of school district.

(a) There shall be only one (1) kind of school district in this state, and each shall have the same prerogatives, powers, duties, and privileges as herein set forth.

(b) All school districts which may be hereafter created shall be the same kind, with the same prerogatives, powers, duties, and privileges as provided by law.

History. Acts 1931, No. 169, § 43; Pope's Dig., § 11476; A.S.A. 1947, § 80-401; Acts 1993, No. 294, § 6.

Publisher's Notes. Acts 1931, No. 169, § 76 provided that school districts exist-

ing prior to passage of Acts 1931, No. 169 were to become school districts under that act, and that any defects in formation of those districts were cured.

CASE NOTES

ANALYSIS

Department of Correction District.
Sovereign Immunity.

Department of Correction District.

The Department of Correction is authorized to offer both general education and vocational education experiences for its student population; the fact that the Department's students are awarded a GED or receive vocational-technical training does not negate the Department's responsibility to operate under the law as a publicly supported school district. *Allred v. Arkansas Dep't of Cor. Sch. Dist.*, 322 Ark. 772, 912 S.W.2d 4 (1995).

The Department of Correction school district is a part of State's public school system and subject to provisions of Teacher Fair Dismissal Act, § 6-17-1501 et seq. *Allred v. Arkansas Dep't of Cor. Sch. Dist.*, 322 Ark. 772, 912 S.W.2d 4 (1995).

Sovereign Immunity.

Arkansas case law holding that school districts are not arms of the state government is still good law; this section and § 6-13-102 show the general assembly's intent that school districts are body corporates and are not entitled to assert sovereign immunity. *Crenshaw v. Eudora Sch. Dist.*, 362 Ark. 288, 208 S.W.3d 206 (2005).

6-13-102. Body corporate — Name.

(a) Each school district in the state shall be a body corporate, may contract and be contracted with, and may sue and be sued in its corporate name, which shall be the name it now has unless changed by the State Board of Education.

(b) The state board in naming school districts shall name them, "____ School District No. ____ of ____ County", giving each school district a name and showing the name of the county in which situated, and if it

has territory in more than one (1) county, then the name of the county that is the domicile of the school district.

(c) A certificate showing the name authenticated by the state board shall be filed with the county clerk of the county or of each county in which there is any territory of the school district and by him or her inscribed in a book kept by him or her for that purpose.

(d) All school districts shall have the right to acquire and hold real estate and all other classes of property.

History. Acts 1931, No. 169, § 57; Pope's Dig., § 11490; A.S.A. 1947, § 80-402; Acts 1999, No. 1078, § 25.

Effective Dates. Acts 1999, No. 1078, § 92: July 1, 2000.

RESEARCH REFERENCES

Ark. L. Rev. Torts — Sovereign Immunity — School District Immunity Abolished, 15 Ark. L. Rev. 202.

Hall v. University of Nevada: Sovereign Immunity and the Transitory Action, 27 Ark. L. Rev. 546.

CASE NOTES

ANALYSIS

In General.
Contracts.
Designation of District.
Suits.

In General.

Although there are exceptions, school districts are generally considered creatures of the state and may not avail themselves of all constitutional safeguards. Delta Special Sch. Dist. No. 5 v. State Bd. of Educ., 745 F.2d 532 (8th Cir. 1984).

Contracts.

School districts are creatures of the statute, may act only through a board of directors, and are bound by all lawful contracts into which they may enter. F. E. Compton & Co. v. Greenwood School Dist., 203 Ark. 935, 159 S.W.2d 721 (1942).

School district was not liable on contracts not ratified by school board. F. E. Compton & Co. v. Greenwood School Dist., 203 Ark. 935, 159 S.W.2d 721 (1942).

Designation of District.

Although statute provided that school district should be designated "No. —," a school district could be numbered by the letters of the alphabet instead of by figures. Bonner v. Snipes, 103 Ark. 298, 147 S.W. 56 (1912) (decision under prior law).

Suits.

A school district is a corporation and may sue in any of the courts of the state having competent jurisdiction. Clarke v. School Dist., 84 Ark. 516, 106 S.W. 677 (1907) (decision under prior law).

Arkansas case law holding that school districts are not arms of the state government is still good law; § 6-13-101 and this section show the general assembly's intent that school districts are body corporations and are not entitled to assert sovereign immunity. Crenshaw v. Eudora Sch. Dist., 362 Ark. 288, 208 S.W.3d 206 (2005).

Cited: Muse v. Prescott Sch. Dist., 233 Ark. 789, 349 S.W.2d 329 (1961).

6-13-103. Power of eminent domain — Repurchase by former owner.

(a) All school districts in the state are granted the power of eminent domain and may take and use private property for the use of the school district for school purposes, and school purposes shall include a site for a schoolhouse, necessary playground and athletic fields, stadiums,

libraries, and other necessary uses incidental to the maintenance of schools and the welfare of teachers and pupils.

(b) If the owners of property desired to be acquired by the board of directors of any school district shall not agree on the price, the board of directors of the school district may exercise the right of eminent domain, after the same procedure as is provided by law for municipal corporations and counties, and no advance deposit of money shall be required unless the school district desires immediate possession of the property to be condemned, before a hearing can be held fixing the value thereof; and after the verdict of the jury finding the damage to the owner of the property in such proceedings, the school district shall have the right to take the property at the value found or abandon the proceedings to condemn it for one (1) year.

(c)(1)(A) When any public school is closed and any of the real property acquired for or used by the school was acquired by the exercise of the power of eminent domain, the person who owned the property at the time it was taken by eminent domain, or his or her successor in interest, shall be entitled to repurchase that portion of the property on which no capital improvements are located from the school district for the amount or proportional amount the school district paid for the property if the school district acquired the property by the power of eminent domain within the last fifteen (15) years.

(B) If the property was acquired by the school district more than fifteen (15) years prior to the closing of the school, the previous owner shall be entitled to repurchase the property from the school district at fair market value.

(2) Any person who has the option to repurchase property from a school district under subdivision (c)(1) of this section shall notify the school district of its desire to repurchase the property and exercise the option within one (1) year after the school is closed, and not thereafter.

History. Acts 1931, No. 169, § 58;
Pope's Dig., § 11491; A.S.A. 1947, § 80-403; Acts 1991, No. 363, §§ 1, 2.

CASE NOTES

ANALYSIS

Compensation.
Possession.

Compensation.

The owner of lands which were condemned for school purposes was entitled to have his compensation from the time that the district filed its petition to condemn his land. *School Dist. v. Smith*, 113 Ark. 530, 168 S.W. 1089 (1914) (decision under prior law).

Possession.

Where a school district had condemned lands, the right to the possession of the property became absolute in the district upon the payment of the compensation into court as prescribed by the statute, and when the order of court was made, vesting title in the district, it related back to the date of the filing of the petition for condemnation. *School Dist. v. Smith*, 113 Ark. 530, 168 S.W. 1089 (1914) (decision under prior law).

Cited: *Burton v. Ward*, 218 Ark. 253,

236 S.W.2d 65 (1951); Little Rock Sch. Dist. v. Arkansas State Bd. of Educ., 902 F.2d 1289 (8th Cir. 1990).

6-13-104. Uncertain boundaries.

In case there is any doubt as to the boundaries of a school district because of lost records or other uncertainty, the State Board of Education shall issue an order fixing the boundaries and shall file the order with the county clerk, who shall make a permanent record of the order, and thereafter the boundaries so fixed shall be the boundaries of the school district until changes are made according to the provisions of law, and the school district shall be a school district according to the provisions of this act.

History. Acts 1931, No. 169, § 76; Pope's Dig., § 11512; A.S.A. 1947, § 80-425; Acts 1993, No. 294, § 6; 1999, No. 1078, § 26.

Meaning of "this act". Acts 1931, No. 169, codified as §§ 6-10-101 — 6-10-104, 6-10-107, 6-11-101 — 6-11-105, 6-11-106 [repealed], 6-11-107, 6-11-110, 6-11-111, 6-11-117, 6-12-109 [repealed], 6-12-206 [repealed], 6-13-101 — 6-13-104, 6-13-619, 6-13-620, 6-14-104 [repealed], 6-14-118, 6-16-103 — 6-16-105, 6-16-107, 6-17-

101, 6-17-104, 6-17-105 [repealed], 6-17-401, 6-17-405 [repealed], 6-18-217, 6-18-219, 6-18-501, 6-18-507, 6-18-701, 6-19-102, 6-20-202 — 204, 6-20-208 [repealed], 6-20-215 — 6-20-217, 6-20-220 [repealed], 6-20-221, 6-20-222, 6-20-403, 6-20-408 [repealed], 6-20-1201, 6-20-1204 — 6-20-1215, 6-21-101, 6-21-602 [repealed], 6-21-604 — 6-21-606, 6-51-211 — 6-51-215, 26-80-101, 26-80-102, 26-80-104.

Effective Dates. Acts 1999, No. 1078, § 92: July 1, 2000.

CASE NOTES

Applicability.

Where there was no evidence that the two disputing school districts even existed in 1931 when this section was enacted,

this section was inapplicable. *Izard County Bd. of Education v. Violet Hill School Dist.*, 10 Ark. App. 286, 663 S.W.2d 207 (1984).

6-13-105. School district sale of state-donated lands.

(a) Any school district in the State of Arkansas having lands donated and given to it by the State of Arkansas through action of the General Assembly, to be used for sites of schoolhouses, shall:

- (1) Have the power of sale of the lands; and
- (2) Be enabled to give good and lawful title to the lands.

(b) The proceeds of a sale shall be used entirely and exclusively for school purposes.

(c) The benefits accruing from the sale shall remain within and be applied to the same school district either alone or combined with other school districts of a contiguous nature where the original school district may have been consolidated with other adjoining school districts.

History. Acts 1929, No. 139, § 1; Pope's Dig., § 11728; A.S.A. 1947, § 80-512.

6-13-106. [Repealed.]

Publisher's Notes. This section, concerning districts where no high school is maintained, was repealed by Acts 2007,

No. 1573, § 44. The section was derived from Acts 1937, No. 332, § 1; Pope's Dig., § 11727; A.S.A. 1947, § 80-516.

6-13-107. Membership in state association of school board of directors officials.

School districts in this state may voluntarily, at the discretion of the majority vote of the members of the school board of directors, belong to and pay dues to a nonprofit state association of school board officials established for the purpose of compiling and disseminating information and conducting seminars, workshops, and similar programs designed to inform school board members of school problems and to enable school boards of directors to more efficiently perform their respective duties.

History. Acts 1969, No. 83, § 1; A.S.A. 1947, § 80-458.

6-13-108. Sixteenth section school lands.

(a) All lands in this state which are known as sixteenth section school lands and which are the property of the State of Arkansas shall belong to and the title thereto shall vest in the local school districts where the lands are located.

(b)(1) Upon presentation of proof to the Commissioner of State Lands that sixteenth section school land owned by the state is located in a local school district, the school district shall be entitled to a general warranty deed from the Commissioner of State Lands conveying all the right, title, and interest of the State of Arkansas to such land.

(2) In executing the deed, the Commissioner of State Lands shall be governed only by the provisions of this section.

(c)(1) Any local school district having sixteenth section school land conveyed to it by the State of Arkansas through this section shall have authority to sell the land.

(2) The proceeds of such sale shall be used for school purposes.

History. Acts 1997, No. 231, § 1.

Publisher's Notes. Former § 6-13-108, concerning independent districts in counties of not less than 35,000 but not more than 40,000, was repealed by Acts 1993, No. 294, § 6. The section was derived from Acts 1967, No. 189, § 1; A.S.A. 1947, § 80-457.

Cross References. Board's powers and duties, § 6-13-620.

Board's authority to convey section lands, § 6-13-621.

Sixteenth section school lands, § 22-5-407.

6-13-109. School superintendent.

(a) The public school districts in the state shall each employ a superintendent of schools, whose qualifications and duties shall be prescribed by the General Assembly and the State Board of Education.

(b) "Superintendent of schools" is defined as the executive officer of a school district board of directors directing the affairs of the school district and teaching not more than one-half (½) of the time in the school day.

History. Acts 1999, No. 1078, § 27.

Publisher's Notes. Former § 6-13-109, concerning municipally owned housing projects declared part of school district, was repealed by Acts 1989, No. 950,

§ 1. This section was derived from Acts 1953, No. 223, § 1; A.S.A. 1947, § 80-436.

Effective Dates. Acts 1999, No. 1078, § 92: July 1, 2000.

6-13-110. Purchase of government property.

(a) Each local school district board of directors is authorized to make purchases of surplus real and personal property of the government. Such action may be taken by the local school district board of directors after publication of the intent to make such purchase at least fifteen (15) days prior to action by the local school district board of directors in a newspaper of general circulation in the county in which the local school district is domiciled.

(b) A local school district may enter into an agreement with one (1) or more other local school districts for the joint purchase of surplus real or personal property of the government. If such an agreement is reached, each local school district board of directors, having entered such an agreement, must follow the publication requirements in subsection (a) of this section.

History. Acts 1999, No. 1078, § 28.

Effective Dates. Acts 1999, No. 1078, § 92: July 1, 2000.

6-13-111. Consolidated school districts.

(a) A school district in the State of Arkansas that is consolidated with one (1) or more school districts may:

(1) Sell buildings or lands owned by the school district that are no longer used by the school district; or

(2) Preserve buildings or lands owned by the school district that are no longer used by the school district.

(b) If the school district sells or otherwise disposes of a building or land to a person or entity under this section, then:

(1) The school district shall have the right of first refusal to purchase or otherwise reacquire the real property if the person or entity decides to sell the real property; and

(2) The sale price of the real property when repurchased or otherwise reacquired by the school district shall not:

(A) Exceed the price that the person or entity paid the school district for the property; and

(B) Include compensation for any improvements to the property.

History. Acts 2005, No. 2260, § 1.

SUBCHAPTER 2 — FORMATION, ALTERATION, AND CONSOLIDATION GENERALLY

SECTION.

6-13-201 — 6-13-217. [Repealed.]

6-13-218. [Repealed.]

SECTION.

6-13-219 — 6-13-222. [Repealed.]

6-13-223. [Repealed.]

Cross References. Boundaries coextensive with road improvement district, § 14-316-108.

6-13-201 — 6-13-217. [Repealed.]

Publisher's Notes. These sections, concerning the formation, alteration, and consolidation of school districts generally, were repealed by Acts 1993, No. 294, § 7. They were derived from the following sources:

6-13-201. Acts 1931, No. 169, § 44; Pope's Dig., § 11477; A.S.A. 1947, § 80-404; Acts 1987, No. 614, § 1.

6-13-202. Acts 1943, No. 271, § 2; A.S.A. 1947, § 80-405.

6-13-203. Acts 1931, No. 169, § 47; Pope's Dig., § 11480; A.S.A. 1947, § 80-407.

6-13-204. Acts 1931, No. 169, § 48; Pope's Dig., § 11481; A.S.A. 1947, § 80-408.

6-13-205. Acts 1931, No. 169, § 51; Pope's Dig., § 11484; A.S.A. 1947, § 80-411.

6-13-206. Acts 1931, No. 169, § 49; Pope's Dig., § 11482; A.S.A. 1947, § 80-409.

6-13-207. Acts 1931, No. 169, § 45; Pope's Dig., § 11478; A.S.A. 1947, § 80-406.

6-13-208. Acts 1931, No. 169, § 53; Pope's Dig., § 11486; Acts 1947, No. 327, § 1; A.S.A. 1947, § 80-414.

6-13-209. Acts 1931, No. 169, § 53; Pope's Dig., § 11486; Acts 1947, No. 327, § 1; A.S.A. 1947, § 80-414.

6-13-210. Acts 1931, No. 169, § 53; Pope's Dig., § 11486; Acts 1947, No. 327, § 1; A.S.A. 1947, § 80-414.

6-13-211. Acts 1931, No. 169, § 50; Pope's Dig., § 11483; A.S.A. 1947, § 80-410.

6-13-212. Acts 1939, No. 387, § 1; 1961, No. 197, § 1; A.S.A. 1947, § 80-413.

6-13-213. Acts 1931, No. 169, § 52; Pope's Dig., § 11485; A.S.A. 1947, § 80-412; Acts 1987, No. 549, §§ 1, 2.

6-13-214. Acts 1969, No. 281, § 1; A.S.A. 1947, § 80-459.

6-13-215. Acts 1931, No. 169, § 55; Pope's Dig., § 11488; Acts 1947, No. 235, § 1; A.S.A. 1947, § 80-418; Acts 1987, No. 614, § 2.

6-13-216. Acts 1951, No. 403, § 6; A.S.A. 1947, § 80-424.

6-13-217. Acts 1941, No. 279, § 1; A.S.A. 1947, § 80-420.

6-13-218. [Repealed.]

Publisher's Notes. This section, concerning consolidation of noncontiguous districts, was repealed by Acts 1987, No.

614, § 4. The section was derived from Acts 1965, No. 415, § 1; A.S.A. 1947, § 80-454.

6-13-219 — 6-13-222. [Repealed.]

Publisher's Notes. These sections, concerning hearings on consolidation petitions, appeals, the assumption of property and obligations by the new school

district and annexation when reservoir separates portions of district, were repealed by Acts 1993, No. 294, § 7. They were derived from the following sources:

6-13-219. Acts 1947, No. 361, § 1; A.S.A. 1947, § 80-421.

6-13-220. Acts 1931, No. 169, §§ 46, 56; Pope's Dig., §§ 11479, 11489; A.S.A. 1947, §§ 80-419, 80-422.

6-13-221. Acts 1931, No. 169, § 80; Pope's Dig., § 11516; A.S.A. 1947, § 80-423.

6-13-222. Acts 1979, No. 390, § 1; A.S.A. 1947, § 80-418.2.

6-13-223. [Repealed.]

Publisher's Notes. This section, concerning the annexation to contiguous district when district pupils attend private schools, was repealed by Acts 1989, No.

950, § 1. This section was derived from Acts 1965, No. 451, § 1; A.S.A. 1947, § 80-456.

SUBCHAPTER 3 — ALTERNATIVE CONSOLIDATION METHOD FOR TWO TO EIGHT SCHOOL DISTRICTS

SECTION.

6-13-301 — 6-13-311. [Repealed.]

6-13-301 — 6-13-311. [Repealed.]

Publisher's Notes. This subchapter was repealed by Acts 1993, No. 294, § 7. The subchapter was derived from the following sources:

6-13-301. Acts 1961, No. 125, § 9; 1963, No. 163, § 3; A.S.A. 1947, § 80-453n.

6-13-302. Acts 1961, No. 125, §§ 1, 2; 1963, No. 163, § 1; A.S.A. 1947, §§ 80-446, 80-447; Acts 1987, No. 614, § 3.

6-13-303. Acts 1961, No. 125, § 3; A.S.A. 1947, § 80-448.

6-13-304. Acts 1961, No. 125, § 4; 1969, No. 294, § 1; A.S.A. 1947, § 80-449.

6-13-305. Acts 1961, No. 125, § 4; 1969, No. 294, § 1; A.S.A. 1947, § 80-449.

6-13-306. Acts 1961, No. 125, § 5; 1963, No. 163, § 2; 1977, No. 291, § 1; A.S.A. 1947, § 80-450; Acts 1989, No. 367, § 1.

6-13-307. Acts 1973, No. 29, §§ 1, 2; A.S.A. 1947, §§ 80-450.1, 80-450.2.

6-13-308. Acts 1961, No. 125, § 6; 1969, No. 294, § 3; A.S.A. 1947, § 80-451.

6-13-309. Acts 1961, No. 125, § 5; 1969, No. 294, § 2; A.S.A. 1947, § 80-450; Acts 1989, No. 367, §§ 2, 4.

6-13-310. Acts 1961, No. 125, § 7; A.S.A. 1947, § 80-452.

6-13-311. Acts 1961, No. 125, § 8; A.S.A. 1947, § 80-453.

In East Poinsett County Sch. Dist. No. 14 v. Massey, 315 Ark. 163, 866 S.W.2d 369 (1993), the court held that Acts 1993, No. 294, legislation that resulted in the supplementation of the terms of a consolidation agreement between two school districts as to the election of school board members, which repealed §§ 6-13-220 and 6-13-301 et seq., did not result in impairment of contract in violation of Ark. Const., Art. 2, § 17 because the contract between the two former districts was public, not private, in nature, and was thus subject to legislative action.

SUBCHAPTER 4 — SUPPLEMENTARY SCHOOL DISTRICT REORGANIZATION ACT

SECTION.

6-13-401 — 6-13-412. [Repealed.]

6-13-401 — 6-13-412. [Repealed.]

Publisher's Notes. This subchapter was repealed by Acts 1993, No. 294, § 7. The subchapter was derived from the following sources:

6-13-401. Acts 1965 (2nd Ex. Sess.), No. 21, § 1; A.S.A. 1947, § 80-426n.

6-13-402. Acts 1965 (2nd Ex. Sess.), No. 21, § 2; A.S.A. 1947, § 80-426n.

6-13-403. Acts 1965 (2nd Ex. Sess.), No. 21, § 13; A.S.A. 1947, § 80-426n.

6-13-404. Acts 1965 (2nd Ex. Sess.), No. 21, § 3; A.S.A. 1947, § 80-426n.

6-13-405. Acts 1965 (2nd Ex. Sess.), No. 21, §§ 4, 8; A.S.A. 1947, § 80-426n.

6-13-406. Acts 1965 (2nd Ex. Sess.), No. 21, § 5; A.S.A. 1947, § 80-426n.

6-13-407. Acts 1965 (2nd Ex. Sess.), No. 21, § 6; A.S.A. 1947, § 80-426n.

6-13-408. Acts 1965 (2nd Ex. Sess.), No. 21, § 7; A.S.A. 1947, § 80-426n.

6-13-409. Acts 1965 (2nd Ex. Sess.), No. 21, § 8; A.S.A. 1947, § 80-426n.

6-13-410. Acts 1965 (2nd Ex. Sess.), No. 21, § 9; A.S.A. 1947, § 80-426n.

6-13-411. Acts 1965 (2nd Ex. Sess.), No. 21, § 10; A.S.A. 1947, § 80-426n.

6-13-412. Acts 1965 (2nd Ex. Sess.), No. 21, § 11; A.S.A. 1947, § 80-426n.

SUBCHAPTER 5 — REORGANIZATION OF SMALL SCHOOL DISTRICTS GENERALLY

SECTION.

6-13-501, 6-13-502. [Repealed.]

6-13-503. [Repealed.]

6-13-501, 6-13-502. [Repealed.]

Publisher's Notes. These sections, concerning school districts affected by the School District Reorganization Act, were repealed by Acts 1993, No. 294, § 7. They were derived from the following sources:

SECTION.

6-13-504 — 6-13-507. [Repealed.]

6-13-501. Init. Meas. 1948, No. 1, §§ 1-4, Acts 1949, p. 1414; A.S.A. 1947, §§ 80-426 — 80-429.

6-13-502. Acts 1949, No. 452, § 1; A.S.A. 1947, § 80-433.

6-13-503. [Repealed.]

Publisher's Notes. This section, concerning certain small districts partially exempt from reorganization act, was re-

pealed by Acts 1989, No. 950, § 1. The section was derived from Acts 1955, No. 42, § 1; A.S.A. 1947, § 80-429.1.

6-13-504 — 6-13-507. [Repealed.]

Publisher's Notes. These sections, concerning the zoning of small school districts, boards of directors, the annexation when office of county supervisor is abolished, and the dissolution of districts having fewer than 10 pupils, were repealed by Acts 1993, No. 294, § 7. They were derived from the following sources:

6-13-504. Acts 1949, No. 324, §§ 1-3; A.S.A. 1947, §§ 80-430 — 80-432.

6-13-505. Acts 1951, No. 75, §§ 1, 2; A.S.A. 1947, §§ 80-434, 80-435.

6-13-506. Acts 1957, No. 300, §§ 1, 2; A.S.A. 1947, §§ 80-437, 80-438.

6-13-507. Acts 1927, No. 144, §§ 1-3; Pope's Dig., §§ 11473-11475; Acts 1943, No. 111, §§ 1, 2; A.S.A. 1947, §§ 80-415 — 80-417.

SUBCHAPTER 6 — SCHOOL DISTRICT BOARDS OF DIRECTORS GENERALLY

SECTION.

6-13-601 — 6-13-603. [Repealed.]

6-13-604. School districts with five or more directors — Increase in number.

6-13-605. [Repealed.]

SECTION.

6-13-606. School districts with more than five directors — Decrease in number.

6-13-607. [Repealed.]

6-13-608. Length of directors' terms.

SECTION.

- 6-13-609, 6-13-610. [Repealed.]
- 6-13-611. Vacancies generally.
- 6-13-612. Vacancy — Conviction of felony.
- 6-13-613. Temporary vacancies — Vacancies created by failure to participate.
- 6-13-614. [Repealed.]
- 6-13-615. Local option to elect directors from single-member zones.
- 6-13-616. Qualifications of directors.
- 6-13-617. Oath.
- 6-13-618. Organization — Disbursing officer.
- 6-13-619. Meetings.
- 6-13-620. Powers and duties.
- 6-13-621. Authority to convey section lands.
- 6-13-622. Publication of budget.
- 6-13-623. Legal proceedings — Employment of counsel.

SECTION.

- 6-13-624. Oil, gas, and mineral leases.
- 6-13-625. Liability insurance.
- 6-13-626. Access of military recruiters to school facilities and records.
- 6-13-627. [Repealed.]
- 6-13-628. Purchases in small communities without bids.
- 6-13-629. Training and instruction — Reimbursement.
- 6-13-630. Election by zone and at large.
- 6-13-631. Effect of minority population on election.
- 6-13-632. Adequate meeting facilities required.
- 6-13-633. Vacancy.
- 6-13-634. School district board of directors — Size.

Cross References. Arkansas Governmental Compliance Act, § 10-4-301 et seq.

Preambles. Acts 1943, No. 120 contained a preamble which read: "Whereas, many school directors have left their usual places of abode to become engaged in war industries, to serve in the Armed Forces of the United States, or to accept other employment elsewhere, and

"Whereas, such departures in many instances have left the membership of school boards in a difficult position with respect to the efficient operation of the affairs of school districts...."

Acts 1951, No. 403, contained a preamble which read: "Whereas, the statutes governing the notice for and the holding of school elections contain conflicting and overlapping requirements that result in unnecessary and burdensome costs upon the school districts of Arkansas, and also result in some uncertainty regarding proper procedure, and should be simplified;

"Now, therefore...."

Effective Dates. Acts 1925, No. 138, § 3: approved Mar. 7, 1925. Emergency clause provided: "This act being necessary for the immediate preservation of the public peace, health and safety, emergency is hereby declared to exist and this act shall take effect and be in force from and after its passage."

Acts 1931, No. 169, § 198: approved Mar. 25, 1931. Emergency clause provided: "It is found as a fact that the advent of the automobile, and the great improvement in the roads of the State have worked great changes in the system of administering the public schools of the State, and there is occasion to change the boundaries of many such districts before the end of the current school term, to relieve many of them of pressing indebtedness, to immediately administer to the health of many pupils in the schools, and to distribute State Funds to many of the schools in the near future to prevent some of them from having to close for the lack of funds; therefore, it is necessary that this act take immediate effect for the preservation of public peace, health, and safety; therefore, an emergency is declared and this act shall take effect and be in force immediately after its passage."

Acts 1935, No. 30, § 13: Feb. 14, 1935. Emergency clause provided: "This act being necessary for the immediate preservation of public peace, health and safety, an emergency is hereby declared to exist for the reason that the condition of the public schools is such that the changes called for in this act are imperative and that the passage of this bill will remedy the present unworkable law as to the number of school directors authorized and this act shall take effect and be in force from and

after its passage and approval as an emergency measure."

Acts 1939, No. 316, § 3: approved Mar. 15, 1939. Emergency clause provided: "Because of the fact that the schools of Arkansas are in dire need of all of the funds available for the purposes allowed by law for expenditure; because of the fact that a great number of school supply salesmen have defrauded many of the school districts in Arkansas by collecting for supplies in advance and never delivering the same and because of the fact that children in many school districts of Arkansas have been made to suffer thereby, an emergency is hereby declared to exist and that this act take effect and be in force from and after its passage."

Acts 1943, No. 120, § 5: Feb. 26, 1943. Emergency clause provided: "Whereas, it is determined that many school directors have absented themselves from their several communities for various purposes, making it difficult for the normal and efficient operation of the affairs of their respective school boards to be carried on, and whereas, such conditions make it difficult to maintain and preserve the public peace, health, and safety, therefore it is hereby declared that an emergency exists and the provisions of this act shall be in full force and effect immediately after the passage and approval of the act."

Acts 1949, No. 287, § 2: Mar. 19, 1949.

Acts 1951, No. 403, § 10: Mar. 26, 1951. Emergency clause provided: "It is hereby ascertained and declared that many school districts of the state now engaged in building programs needed for the instruction and care of the pupils are being delayed because of uncertainties in the present laws governing school elections, and that therefore an emergency exists, and this act, being necessary for the preservation of the public peace, health and safety, shall be in full force and effect from and after its passage and approval."

Acts 1953, No. 204, § 2: Mar. 4, 1953. Emergency clause provided: "Because of the fact that the schools of Arkansas are in dire need of all the funds available for the purpose allowed by law for school expense; because of the fact that certain school districts have embraced in their districts certain Sixteenth Sections of land which

are in danger of lying idle and untitled and not producing revenue for school purposes due to the fact the law is not clear as to who has the authority to lease said lands; and because of the fact that if said authority be not placed in the school boards, said lands may lie idle to the detriment of the school system of the State of Arkansas, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety, shall take effect and be in force from and after its passage and approval."

Acts 1957, No. 86, § 3: Feb. 26, 1957. Emergency clause provided: "It is hereby determined that the decisions of the United States Supreme Court in the school segregation cases require the solution by public school boards of a great variety of school problems of legal complexity which involve the health, safety and general welfare; that school boards in many instances have need of legal advice in solving said problems. An emergency is, therefore, declared to exist and this Act shall be in effect from its passage and its approval by the governor."

Acts 1959, No. 78, § 3: Feb. 20, 1959. Emergency clause provided: "The General Assembly does hereby ascertain and declare that the existing laws pertaining to the organization of school boards and the disbursement of school funds are inadequate, confusing and create serious administrative difficulties and that the immediate passage of this act is necessary to remedy these conditions. Therefore, an emergency is declared to exist, and this Act being necessary for the preservation of the public peace, health, and safety, shall take effect and be in force from the date of its approval."

Acts 1959, No. 80, § 3: Feb. 20, 1959. Emergency clause provided: "It is hereby found and determined by the General Assembly that the laws of this State regarding school purchases are working an undue hardship on school districts in counties having small populations and limited retail stores; that such laws are resulting in excessive costs to such school districts; and that only by the immediate passage of this Act may such situation be corrected. Therefore, an emergency is hereby declared to exist and this Act being

necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1981, No. 13, § 3: Feb. 2, 1981. Emergency clause provided: "It is hereby found and determined by the General Assembly that clarification is needed in the law regarding the filling of a vacancy on a school board created by the conviction of a school board member for a felony, and that this Act is immediately necessary to clarify the law in this respect. It is furthermore determined that some school boards are faced with the problem and in need of immediate guidance, and therefore this Act is immediately necessary. Therefore, an emergency is hereby declared to exist and this Act being immediately necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1989, No. 822, § 4: Mar. 21, 1989. Emergency clause provided: "It is hereby found and determined by the General Assembly of the State of Arkansas that school districts within the State of Arkansas during the spring of 1989 will be making decisions pertaining to the hiring of non-teaching personnel and that those non-teaching personnel should be employed by a written contract to provide them with some certainty regarding their future employment; that the immediate implementation of this act is necessary to preserve the peace, safety and health of citizens of the State of Arkansas. Therefore, an emergency is declared to exist, and this act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1994 (2nd Ex. Sess.), Nos. 57 and 58, § 6: Aug. 26, 1994. Emergency clause provided: "It is hereby found and determined by the Seventy-Ninth General Assembly of the State of Arkansas, meeting in the Second Extraordinary Session of

1994, that many juveniles who have previously been declared delinquent for having committed serious offenses possess handguns and that handgun possession by such juveniles poses a great risk of harm to them and to others. Therefore, in order to immediately increase the penalty for possession of a handgun by juveniles who have previously been found delinquent for having committed certain serious offenses, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1999, No. 1078, § 92: July 1, 2000.

Acts 2003, No. 1280, § 2: Apr. 14, 2003. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the board of directors of a school district must annually publish the school district's proposed budget of expenditures; that legislation is needed to clarify the procedure by which the budget is published; that this act is necessary for school districts to comply with requirements of the Arkansas Supreme Court's decision concerning the adequacy of education in Arkansas; and that this act is immediately necessary because the public must be informed of the school budget in sufficient time to make informed decision regarding the annual ad valorem property tax for the district. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2005, No. 1775, § 2: effective Jan. 1, 2006.

RESEARCH REFERENCES

Am. Jur. 68 Am. Jur. 2d, Schools, § 37 et seq.

C.J.S. 78 C.J.S., Schools, § 105 et seq.

6-13-601 — 6-13-603. [Repealed.]

Publisher's Notes. These sections, concerning definitions, the number of directors generally, and an increase in the number of directors when cities become first class, were repealed by Acts 1993, No. 294, § 7. They were derived from the following sources:

6-13-601. Acts 1935, No. 30, § 1; Pope's Dig., § 11521; A.S.A. 1947, § 80-501.

6-13-602. Acts 1935, No. 30, § 1; Pope's Dig., § 11521; A.S.A. 1947, § 80-501.

6-13-603. Acts 1949, No. 61, §§ 1, 2; A.S.A. 1947, §§ 80-502.2, 80-502.3.

6-13-604. School districts with five or more directors — Increase in number.

(a) The board of directors of any school district in this state that now has authorized or which is authorized to have five (5) or more directors may file a petition with the State Board of Education requesting an increase in the number of directors for the school district to seven (7). However, in any school district in the state having an average daily attendance of twenty-four thousand (24,000) or more, the petition may request that the board of directors for the school district be increased to nine (9).

(b) Notice of the filing of the petition shall be published within ten (10) days thereafter for one (1) insertion in some newspaper having a general circulation in the school district.

(c) Upon a showing that the increase will be for the benefit of the school district petitioning for it, the State Board of Education is authorized to increase the number of directors for the school district to seven (7) or to increase the number of directors for the school district to nine (9) in the case of a school district having an average daily attendance of twenty-four thousand (24,000) or more.

(d) The order directing such increase shall be entered not more than sixty (60) days after the publication of notice.

(e) The additional directors shall be appointed in the manner prescribed by law to serve until the next regular school election.

(f) All directors so appointed shall serve until their successors are elected and qualified.

(g) The additional directors authorized by this section shall be elected for the same term as other directors on the respective boards.

(h) All boards of directors shall be made up of five (5), seven (7), or nine (9) members as allowed by law.

(i) No board of directors shall have an even number of directors whether or not the number of directors of a school district's board of directors was established by an agreement between or among the former school districts that comprise the school district incident to a consolidation or annexation of the former school districts.

(j) Any change in the number of directors serving on the local school board of directors required under this section shall be effective upon the directors taking office following the 2005 annual school election.

(k)(1) Except as otherwise provided by law, any school district that elects its board members from single-member zones shall be subject to the requirements of this section.

(2) For those school districts that are subject to this subsection, “next regular school election” as used in subsection (e) of this section means the 2005 annual school election.

History. Acts 1949, No. 214, § 1; 1979, No. 152, § 1; A.S.A. 1947, § 80-502.1; Acts 1993, No. 294, § 7; 1999, No. 1078, §§ 30, 31; 2005, No. 2151, § 11.

Amendments. The 2005 amendment deleted “any number not to exceed” pre-

ceding “seven (7)” in (a) and (c); deleted “not to exceed” preceding “nine (9)” in (c); and added (h)-(k).

Effective Dates. Acts 1999, No. 1078, § 92 provided: “This act will go into effect on July 1, 2000.”

CASE NOTES

Cited: Allred v. Arkansas Dep’t of Cor. Sch. Dist., 322 Ark. 772, 912 S.W.2d 4 (1995).

6-13-605. [Repealed.]

Publisher’s Notes. This section, concerning increasing the number of directors from three (3) to five (5) in certain districts, was repealed by Acts 1993, No.

294, § 7. The section was derived from Acts 1961, No. 249, §§ 1, 2; 1981, No. 561, § 1; A.S.A. 1947, §§ 80-502.4, 80-502.5.

6-13-606. School districts with more than five directors — Decrease in number.

(a) The board of directors of any school district in this state that now has authorized or which is authorized to have seven (7) or nine (9) directors may file a petition with the State Board of Education requesting a decrease in the number of directors for that school district to five (5) or seven (7).

(b) Notice of the filing of the petition shall be published within ten (10) days thereafter by one (1) insertion in some newspaper having a general circulation in the school district.

(c) Upon a showing that such decrease will not be detrimental to the school district petitioning for it, the state board is authorized to decrease the number of directors for the school district to five (5) or seven (7).

(d) The order directing such decrease shall be entered not more than sixty (60) days after the publication of notice.

(e) Pursuant to the order and as soon as possible thereafter, the members of the board of directors shall draw by lot for the number of positions determined.

(f) The remaining directors shall continue to serve their unexpired terms.

(g) All boards of directors shall be made up of five (5), seven (7), or nine (9) members as allowed by law.

(h)(1) No board of directors shall have an even number of directors whether or not the number of directors of a school district’s board of directors was established by an agreement between or among the

former school districts that comprise the school district incident to a consolidation or an annexation of the former school districts.

(2) No less than ninety (90) days prior to the next annual school election, any school district with an even number of directors shall file a petition with the state board to establish the requisite odd number of directors.

(3) If the number of board members needs to be reduced to create a required odd number of directors and the members cannot agree on the method of reduction, the board of directors in office on August 12, 2005 shall draw lots to determine which board positions will be eliminated.

(i) Any change in the number of directors serving on the local school board of directors required under this section shall be effective upon the directors taking office following the 2005 annual school election.

(j)(1) Except as otherwise provided by law, any school district that elects its board members from single-member zones shall be subject to the requirements of this section.

(2) For those school districts that are subject to this subsection, "next annual school election" as used in subdivision (h)(2) of this section means the 2005 annual school election.

History. Acts 1967, No. 232, § 1; A.S.A. 1947, § 80-502.9; Acts 1999, No. 1078, §§ 32, 33; 2005, No. 2151, § 12.

Amendments. The 2005 amendment, substituted "seven (7) or nine (9)" for "more than five (5)" in (a); substituted

"five (5) or seven (7)" for "any number not fewer than five (5)" in (a) and (c); and added (g)-(j).

Effective Dates. Acts 1999, No. 1078, § 92: July 1, 2000.

6-13-607. [Repealed.]

Publisher's Notes. This section, concerning election by zone for districts with more than 24,000 daily attendance, was repealed by Acts 1999, No. 1078, § 34. The section was derived from Acts 1979,

No. 77, § 1; A.S.A. 1947, § 80-502.10; Acts 1987, No. 522, § 1.

Effective Dates. Acts 1999, No. 1078, § 92: July 1, 2000.

6-13-608. Length of directors' terms.

All members of a school district board of directors shall be elected to a term of office of not less than three (3) years nor more than five (5) years in length and with the expiration of such terms so arranged that, as nearly as possible, an equal number of positions are filled each year. All members of a school district board of directors shall have terms of office of equal length.

History. Acts 1981, No. 50, § 1; A.S.A. 1947, § 80-549; Acts 1999, No. 1078, § 35.

Effective Dates. Acts 1999, No. 1078, § 92: July 1, 2000.

6-13-609, 6-13-610. [Repealed.]

Publisher's Notes. These sections, concerning terms of directors in counties

with populations between 26,000 and 26,800 and in districts with eight direc-

tors, were repealed by Acts 1993, No. 294, § 7. They were derived from the following sources:

6-13-609. Acts 1979, No. 678, § 1; A.S.A. 1947, § 80-502.11.

6-13-610. Acts 1967, No. 129, §§ 1-3; A.S.A. 1947, §§ 80-502.6 — 80-502.8.

6-13-611. Vacancies generally.

(a) If a vacancy occurs on the school district board of directors, the vacancy shall be filled by a majority vote of the remaining directors.

(b) If, as a result of several vacancies on the board, only a minority of the directors remain or if the remaining directors fail to fill vacancies within thirty (30) days, the vacancies shall be filled by appointment by the county quorum court.

(c) All appointed directors shall serve only to the next annual school election, at which time the electors shall select in the usual manner directors to serve the unexpired terms of the vacating directors.

History. Acts 1935, No. 30, § 4; Pope's Dig., § 11524; A.S.A. 1947, § 80-504; Acts 1991, No. 201, § 1; 1999, No. 1078, § 36.

Effective Dates. Acts 1999, No. 1078, § 92: July 1, 2000.

CASE NOTES

ANALYSIS

Appointments.
Elections.

Appointments.

Where the county court filled two vacancies in a board of school directors without designating which appointee held for the long or the short term and the next annual school meeting decided that one of the appointees should hold the long term and elected a successor to the other, the former continued to hold office, not under the decision, but under his original appointment because no successor was elected to succeed him. *Click v. Sample*, 73 Ark. 194, 83 S.W. 932 (1904) (decision under prior law).

Elections.

Vacancies in board could be filled at special election. *Watson v. Trotter*, 188 Ark. 485, 66 S.W.2d 634 (1933) (decision under prior law).

Where a trial court had ousted the apparent winner of an election for school board director due to ballots deemed defective under Ark. Const., Amend. 51, §§ 6, 13, the trial court had the power to declare the next highest vote getter the winner of the election and to place him in office. *Loyd v. Keathley*, 284 Ark. 391, 682 S.W.2d 739 (1985).

Cited: *Glover v. Henry*, 231 Ark. 111, 328 S.W.2d 382 (1959); *Jessup v. Hancock*, 238 Ark. 866, 385 S.W.2d 24 (1964); *East Poinsett County Sch. Dist. No. 14 v. Massey*, 317 Ark. 219, 876 S.W.2d 573 (1994).

6-13-612. Vacancy — Conviction of felony.

(a) When a member of the board of directors of any school district in this state is convicted of a felony, a vacancy shall exist on that board of directors from the date of the final judgment of conviction.

(b) The prosecuting attorney who successfully prosecutes a school district board member for a felony shall immediately notify the remaining members of that board of directors of the fact of the conviction and of the existence of a vacancy on the board of directors of the school district.

(c) The remaining members of the board of directors of the school district shall at their next regular meeting select a person to fill such vacancy until the next regular school election, at which election a successor member shall be elected for the remaining portion of such term.

History. Acts 1981, No. 13, § 1; A.S.A. 1947, § 80-504.2.

6-13-613. Temporary vacancies — Vacancies created by failure to participate.

(a) In cases where directors have entered the services of the armed forces of the United States or its allies, temporary vacancies on such boards are declared to exist until the end of the terms of the members or until their return to civilian life in the school district if their return occurs before the expiration of their elected terms.

(b) These vacancies shall be filled in the manner prescribed by law, except that appointments of the successors shall be conditional upon the return of the members to resume their normal civilian activities in the school district. Upon return, they may resume their duties as directors for their unexpired terms by written notice to the secretaries of their respective school boards of directors.

(c) Directors appointed under the provisions of this section shall take the required oath of office and conform in all respects to legal provisions regarding directors.

(d) It shall be the duty of the secretary of the school board of directors to notify the county clerk of such appointments within five (5) days of the appointment if made by the local board. This notice shall state the name of the person whom the appointee is succeeding and the expiration date of the term of office.

(e) Directors serving in the armed forces shall be eligible for reelection in the usual manner prescribed by law. If reelected, the procedure for filling the temporary vacancies provided herein shall be again followed in the appointment of the successors to the absentees, and all other provisions of this section shall prevail.

(f) Should a local school board member accept employment at a distance from the school district such that it renders the maintenance of his or her residence in the school district impossible or impracticable, should he or she remove his or her actual, bona fide residence outside the school district boundaries, on other than a temporary basis, should he or she fail to attend a meeting of the board of directors for over a period of ninety (90) days, his or her office as a school board member, and any positions held thereon, may be declared vacant by a majority vote of the remaining school board members, and his or her successor shall be appointed as prescribed by law.

(g) If there is a majority of the directors left after the absences mentioned in this section, such majority may act without notice to those so absent as fully and as effectively as if all directors were present.

(h) If there is more than a majority remaining after such absences, notice must be given for a reasonable length of time before the meeting to directors not so absent of the time, place, and purpose of a meeting of the board of directors, unless the meeting is a regular and not a special or called meeting.

History. Acts 1943, No. 120, §§ 1-3; A.S.A. 1947, §§ 80-206 — 80-208; Acts 1991, No. 201, § 2; 1993, No. 294, § 7; 1999, No. 1078, § 37.

Effective Dates. Acts 1999, No. 1078, § 92: July 1, 2000.

6-13-614. [Repealed.]

Publisher's Notes. This section, concerning school districts with five directors, was repealed by Acts 2003, No. 1364, § 1.

The section was derived from Acts 1945, No. 29, § 1; A.S.A. 1947, § 80-503.

6-13-615. Local option to elect directors from single-member zones.

(a)(1) Qualified electors of a school district may, by petition, have placed on the ballot of any annual school election the issue to determine whether to elect the school district board of directors from single-member zones.

(2) The petitions calling for such an issue to be placed on the ballot shall be signed by not less than ten percent (10%) of the qualified electors of the school district, based upon the total number of registered voters in the school district.

(3) The petitions may be circulated between ninety (90) days and forty-five (45) days prior to the election date.

(4) The petitions shall be filed with the county election commission of the county in which the largest portion of the school district lies.

(b)(1) Within ten (10) days of the receipt and verification of the sufficiency of the petitions, the county election commission shall notify the board of directors of the affected school district that the issue shall be placed on the ballot of the next school election.

(2) The county election commission shall specify the wording of the ballot to be used to determine whether to elect the school district board of directors from single-member zones.

(c) If a majority of the qualified electors of the school district shall vote for the election of the school district board of directors from single-member school districts, the county election commission of the county in which the largest portion of the school district lies shall establish, within the school district, boundaries for the election of directors of the board of directors which shall have substantially equal population based on the most recent available census information and from which racial minorities may be represented on the board of directors in proportions reflected in the school district population as a whole.

(d) The members of the board of directors of the school district shall be elected for a three-year term. Provided, any member of the board of

directors shall hold office until his or her successor has been elected and qualified. A member of the board of directors who is qualified to serve the zone he or she represents may succeed himself or herself.

(e)(1) Following the election, the new school district board of directors at their initial meeting shall, by lot, establish their initial terms so that an equal number of positions are filled each year and not more than three (3) members' terms expire each year.

(2) The regular term of office for the school district board of directors elected after the initial election following the decision to elect from single-member zones shall be the same as the term of the school district board of directors of the school district prior to the change in the method of election of the school district board of directors.

History. Acts 1989, No. 872, §§ 1-5.

Publisher's Notes. Former § 6-13-615, concerning incarceration for failure to integrate, was repealed by Acts 1989, No. 950, § 1. The former section was derived from Acts 1959, No. 207, §§ 1, 2; A.S.A. 1947, §§ 80-542, 80-543.

Acts 1989, No. 872, § 4, provided, in part: "Upon passage, the length of terms of persons serving on the board of directors of a school district shall be reduced or lengthened to comply with this section. At the time of the passage, the board of directors shall draw lots to determine which zone positions their board position

shall represent until a qualified board member from that zone can be elected. The board of directors shall then draw lots to stagger the lengths of terms of the various zones. The zone terms shall be staggered so that one-third, or the nearest whole number, of the zones shall be subject to election at the next regular school election, one-third, or to the nearest whole number, of the zones shall be subject to election at the next following regular school election, and one-third, or any remaining number, of the zones shall be subject to election at the second subsequent regular school election."

CASE NOTES

In General.

This section authorizes election for and the establishment of single-member

zones. *East Poinsett County Sch. Dist. No. 14 v. Massey*, 315 Ark. 163, 866 S.W.2d 369 (1993).

6-13-616. Qualifications of directors.

(a) No person shall be eligible to be a member of any school district board of directors in this state unless he or she is a qualified elector of the school district which he or she serves.

(b) No person who is elected to a school district board of directors shall be eligible for employment in that same school district.

History. Acts 1935, No. 30, § 4; Pope's Dig., § 11524; Acts 1957, No. 131, § 1; A.S.A. 1947, §§ 80-504, 80-504.1; Acts 1989, No. 242, § 1; 1993, No. 294, § 7; 1993, No. 346, § 1; 1999, No. 1390, § 1.

A.C.R.C. Notes. This section was amended by Acts 1989, No. 242, § 1, effective

July 3, 1989. However, it was also repealed by Acts 1989, No. 950, § 1, effective March 27, 1989; the title of the act stated that it was designed to repeal provisions which might impede the providing of quality education to all Arkansas students.

CASE NOTES

ANALYSIS

Eligibility.
Ownership of Property.
Residence.

Eligibility.

Even though Acts 1989, No. 242 purported to make a person whose residential property spans parts of two school districts eligible to serve on the board of either, it did not change the qualified elector requirement of Ark. Const., Art. 19, § 3. *Davis v. Holt*, 304 Ark. 619, 804 S.W.2d 362 (1991).

Ownership of Property.

This section does not specify that ownership of real property in the school district must exist at time of election, thus director is qualified if this eligibility requirement is met at time of commencement of term and induction into office.

6-13-617. Oath.

(a) Each director elected or appointed shall, within ten (10) days after receiving notice of his or her election or appointment, subscribe to the following oath:

"I, _____, do hereby solemnly swear or affirm, that I will support the Constitution of the United States and the Constitution of the State of Arkansas, and that I will not be interested, directly or indirectly, in any contract made by the district of which I am a director, except as permitted by state law and that I will faithfully discharge the duties as school director in _____ School District, No. _____ of _____ County, Arkansas, upon which I am about to enter."

(b) The county clerk, upon receipt of the oath prescribed for a director, shall immediately commission such persons, and they shall enter at once upon their duties as directors.

History. Acts 1935, No. 30, § 12; Pope's Dig., § 11532; A.S.A. 1947, § 80-505; Acts 2001, No. 1599, § 20.

Jessup v. Hancock, 238 Ark. 866, 385 S.W.2d 24 (1964).

Residence.

Where the attempted exchange of territory between two school districts was void because it didn't have the approval of a majority of the electors in each district as required by § 6-13-201 (repealed), a resident of the territory sought to be added to one of the districts was not a resident of the school district to which his property was transferred, and, therefore, he could not be a candidate for school director in that district since this section requires a school director to be a bona fide resident and qualified elector of the district which he serves. *Holden v. Vent*, 270 Ark. 567, 605 S.W.2d 463 (1980).

Cited: *Glover v. Henry*, 231 Ark. 111, 328 S.W.2d 382 (1959); *Jessup v. Hancock*, 238 Ark. 866, 385 S.W.2d 24 (1964).

CASE NOTES

Interest in Transactions.

Directors, who entered into private business transactions with school district, were enjoined from having any future financial dealings with their district, since those dealings violated their oath as direc-

tors. *Dowell v. School Dist.*, 220 Ark. 828, 250 S.W.2d 127 (1952).

Taxpayers and residents of school district could not recover public funds paid for supplies to merchant whose son was a member of the school board where the

preponderance of the evidence established that fair prices were charged by merchant and value received by the school district. *Brewer v. Howell*, 227 Ark. 517, 299 S.W.2d 851 (1957).

Purchases made from a business concern employing a school board member

are not in violation of the law, for that director is not interested either "directly or indirectly" as is contemplated by the statute. *Brewer v. Howell*, 227 Ark. 517, 299 S.W.2d 851 (1957).

Cited: *Jessup v. Hancock*, 238 Ark. 866, 385 S.W.2d 24 (1964).

6-13-618. Organization — Disbursing officer.

(a) At the first regular meeting following the annual school election, the board of directors of each school district shall organize by electing:

- (1) One (1) of their number president;
- (2) One (1) of their number vice president; and
- (3) A secretary who may be, but need not be, a member of the board of directors.

(b)(1) By resolution adopted by majority vote, the board of directors shall designate one (1) of its members who shall serve as the primary board of directors disbursing officer of the school district.

(2) In addition, the board of directors may designate one (1) or more board members as an alternate board of directors disbursing officer or officers in the absence of the designated primary board of directors disbursing officer.

(3) Such a resolution must be filed with the county treasurer and the Director of the Department of Finance and Administration.

(c) No warrant or check other than food service or activity funds warrants or checks shall be valid in the absence of the following manual or facsimile signatures:

- (1) That of the designated board member serving as disbursing officer for the school district or the designated alternate; and
- (2) That of the superintendent of the school district.

History. Acts 1959, No. 78, § 1; 1967, No. 187, § 1; A.S.A. 1947, § 80-506; Acts 2003, No. 671, § 1.

A.C.R.C. Notes. The operation of subdivision (b)(2) of this section was suspended by adoption of a self-insured fidel-

ity bond program for public officers, officials, and employees, effective July 20, 1987, pursuant to § 21-2-701 et seq. The subsection may again become effective upon cessation of coverage under that program. See § 21-2-703.

6-13-619. Meetings.

(a)(1) The board of directors shall hold regular monthly meetings during the school term and shall meet on call of the president or secretary or any three (3) members of the board of directors or when petitioned to do so by a petition in writing signed by fifty (50) electors in the school district.

(2) Regular meetings of the school board of directors and all school board committees, and special meetings of the school board of directors and school board committees that deal with personnel or personnel policies, shall, except in emergency situations, be held after 5:00 p.m.

(3)(A) Not less than ten (10) days prior to the date of a regular meeting of its board of directors, a public school district shall publish on the public school district's website a notice of the date, time, and place of the meeting.

(B) Not less than twenty-four (24) hours prior to a rescheduled regular meeting, a public school district shall publish a notice on its website of the change in the date, time, or place of the regular meeting.

(b)(1) Minutes of regular and special meetings of the school board of directors shall be kept by the secretary of the board of directors and filed by him or her in a permanent record.

(2) This record shall also contain a copy of all budgets of the school district and all reports of the county treasurer on the financial affairs of the school district.

(c)(1)(A) A majority of a quorum voting affirmatively shall be required for the passage of any motion or resolution.

(B) Any member who abstains from voting shall be counted as having voted against the motion or resolution.

(C) If a member announces a conflict of interest with regard to the issue, the member may leave the meeting until the voting on the issue is concluded, and the member who abstains from voting thereby shall not be counted as having voted.

(2) For the purposes of this section, a quorum shall be a majority of the membership of the board of directors.

(d)(1) Any member of the board of directors who misses three (3) regular and consecutive board of directors meetings during a school year for any reason other than military service of the member or illness of the member verified by a written sworn statement of the member's attending physician may be removed from office by a majority vote of the remaining board members, but only after an opportunity for a hearing before the board of directors upon fifteen (15) days notice received by personal delivery or by certified mail with the return receipt signed by the addressee only requested.

(2) If the board of directors takes action to remove the member from office, the remaining members shall then appoint another individual to serve until the next annual school election, when electors shall select in the usual manner a director to serve the unexpired term of the removed member.

History. Acts 1931, No. 169, § 96; Pope's Dig., § 11534; Acts 1983, No. 855, § 1; A.S.A. 1947, § 80-507; Acts 1993, No. 608, § 1; 1995, No. 1347, § 1; 2007, No. 1588, § 1.

Publisher's Notes. Acts 1995, No. 1347 became law without the Governor's signature.

Amendments. The 2007 amendment, in (a)(1), inserted "of directors" and substituted "school district" for "district" in (1); and added (a)(3).

Cross References. Meetings open to public, § 25-19-106.

CASE NOTES

ANALYSIS

Notice.
Quorum.

Notice.

A contract for the employment of a teacher entered into at a meeting of a school board at which only two of its three members were present and of which meeting the third member had no notice was invalid. *School Dist. v. Castell*, 105 Ark. 106, 150 S.W. 407 (1912) (decision under prior law).

The mere presence together of the directors of a school district was not a school meeting where they had not met pursuant to notice unless it was made so by the participation for that purpose of all the directors. *Rice v. School Dist.*, 109 Ark.

125, 159 S.W. 29 (1913) (decision under prior law).

Two directors could act for the school district and bind it by their contract only at a meeting at which all the directors were present or of which they all had notice. *Rice v. School Dist.*, 109 Ark. 125, 159 S.W. 29 (1913) (decision under prior law).

Quorum.

Although former subdivision (c)(4) of this section could be read to mean a quorum of the board as originally constituted or a quorum of the board comprised of remaining active members, a quorum of the original board, that is, four members, is required to be present to conduct the business of the board. *East Poinsett County Sch. Dist. No. 14 v. Massey*, 317 Ark. 219, 876 S.W.2d 573 (1994).

6-13-620. Powers and duties.

The board of directors of each school district in the state shall be charged with the following powers and perform the following duties:

(1) Have the care and custody of the schoolhouse, grounds, and other property belonging to the school district and shall keep it in good repair and in sanitary and sightly condition;

(2) Lease sixteenth section lands located in the school district, individually or in conjunction with the other boards of directors of other school districts interested in the sixteenth section, as the case may be;

(3) Purchase buildings or rent schoolhouses and sites therefor and sell, rent, or exchange the sites or schoolhouses;

(4)(A) Employ teachers and other employees necessary for the proper conduct of the public schools of the school district and make written contracts with teachers and all other employees in the form prescribed by the State Board of Education.

(B) There shall be three (3) copies of each contract made:

(i) One (1) copy to be retained by the school district board of directors;

(ii) One (1) copy to be given to the employee; and

(iii)(a) One (1) copy to be forwarded to the county treasurer if the county treasurer serves as treasurer for the school district.

(b)(1) A county treasurer acting as treasurer for a public school district shall destroy teacher contracts that have been filed in his or her office for more than two (2) years.

(2)(A) Within thirty (30) days of the date a school district replaces a county treasurer with its own school district treasurer, the county treasurer shall destroy all teacher contracts filed in his or her office.

(B) The county treasurer shall provide written notice to the school district of the date it will destroy the records.

(3) The county treasurer shall destroy teacher contracts in a manner that will protect the confidentiality of personally identifiable information including the name, residence address, and social security number of the teacher who is a party to the contract.

(C) The issuing of annual contracts to personnel other than substitute teachers employed on a daily basis and teachers shall be in writing and shall recite the duration of employment, specific duties, and annual salary;

(5) See that all subjects for study prescribed by the state board or by law for all grades of schools in their school district are taught;

(6) Visit classrooms frequently, but no less than annually, in the schools in their school district while children are present, see to the welfare of the pupils, encourage them in their studies, and assist the teachers in the work so far as they can;

(7) Prepare and publish the school district's budget for the ensuing year, in accordance with § 6-13-622;

(8) Issue warrants on the county treasurer, when the county treasurer serves as treasurer of the school district, in accordance with the provisions of this act for the payment of salaries due teachers and other employees and for any other lawful purposes and state in the warrants the consideration for which each is drawn, provided that the issuance of the warrants for the purposes set out in subdivision (10) of this section shall be governed by the penalty therein set out. The warrant shall be in the form approved by the state board;

(9) Obtain from the county collector and county treasurer information from time to time as to the state of finances of their school district and keep their expenditures safely within the means of the school district;

(10)(A) Buy and pay for out of school district school funds supplies such as fuel, crayons, charts, globes, dictionaries, etc. which may be necessary for the efficient operation of the schools, provided, no warrants shall be issued by any school board of directors for the payment of the supplies or services set out in this subdivision (10) until the supplies or services shall have been delivered to the school.

(B) If any school board of directors or any part of the directors of any school board of directors in the State of Arkansas shall issue warrants in payment of supplies or services prior to the delivery of the supplies or services to the school and if the school district suffers any loss because of the failure of the seller to deliver the supplies or services or because of the defective quality of the supplies or services or for any other reason, then the directors shall be personally liable to the school district for the total amount of loss suffered by the school district;

(11)(A) If in any school district it should be apparent that the schools cannot be operated for the remainder of the school year without incurring more indebtedness than that represented by outstanding

bonds and those that may be issued for buildings, equipment for the school buildings, purchasing sites, and repairing school buildings or the improvement of sites, it shall be the duty of the school board of directors to close the school and cease paying the teachers for the remainder of that fiscal year. Each contract made with the teachers shall be subject to that contingency, and the school district shall not be liable for teachers' salaries for the time the school is so closed.

(B) Should any director participate in keeping a school open and incurring additional expenses which would cause increased indebtedness of the school district prohibited in this subdivision (11), he or she shall be liable personally for the amount of the additional indebtedness.

(C) However, in cases of emergency, the state board may grant special permission to a school district to create temporary current indebtedness.

(D) Nothing herein shall prevent any school board of directors from borrowing money from banks, from individuals, or from next year's revenue in order to provide funds in such amount that the maximum nonbonded indebtedness of its school district so incurred shall not be greater than the maximum nonbonded indebtedness of the school district was at any time during the preceding fiscal year.

(E) If any nonbonded debt is funded by the issuance of bonds, the amount so funded shall not be considered in determining the maximum amount of nonbonded indebtedness during the preceding fiscal year;

(12) Do all other things necessary and lawful for the conduct of efficient free public schools in the school district;

(13) Publish on the school district's website if the school district has a website:

(A) Minutes of regular and special meetings of the school board of directors;

(B) The budget for the ensuing year;

(C) Financial breakdown of monthly expenses of the school district;

(D) Salary schedule for all employees;

(E) The school district's yearly audit; and

(F) The annual statistical report; and

(14) If a school district does not have a website, then:

(A) On or before July 1, 2003, the school district's education service cooperative shall develop a website for the school district; or

(B) The education service cooperative shall enter into an agreement with a local city, county, or other local governmental agency to have the school district's information as required in subdivision (13) of this section published on an existing local city, county, or other local governmental agency's website.

1957, No. 280, § 1; 1969, No. 327, § 1; 1973, No. 253, § 3; 1973, No. 690, § 1; 1977, No. 658, § 1; 1983 (Ex. Sess.), No. 41, § 1; 1983 (Ex. Sess.), No. 53, § 1; A.S.A. 1947, § 80-509; Acts 1989, No. 822, § 1; 1993, No. 294, § 7; 1995, No. 233, § 1; 1999, No. 391, § 3; 1999, No. 1078, § 38; 2001, No. 581, § 1; 2001, No. 1747, § 1; 2003, No. 1738, § 1; 2007, No. 617, §§ 5, 6; 2007, No. 710, § 1; 2007, No. 1573, § 45.

A.C.R.C. Notes. Pursuant to § 1-2-207, Arkansas Code § 6-13-620(b) is set out above as repealed by Acts 2007, No. 1573, § 45. Acts 2007, No. 617, § 6 amended § 6-13-620(b) as follows: “(b) Beginning on July 16, 2003, through July 1, 2004, notwithstanding any other provision of law, no school board of any public school or any governing body of a charter school or an education service cooperative shall enter into any contractual or project obligation exceeding seventy-five thousand dollars (\$75,000) or one percent of the district’s total state and local revenues for additional base funding, as defined on lines 15 and 16 of the Department of Education’s May 16, 2002 State Aid Notice, whichever is greater, for the purchase, sale, construction, improvement, or repair or equipment, facilities, motor vehicles, buildings, or real property sites without the prior written approval of the state board or the Commissioner of Education as allowed in emergency situations.”

Acts 2007, No. 710, § 6 provided: “Destruction of records.

“(a) On or before December 31, 2007, each county clerk in this state shall destroy each teacher contract, teaching certificate, and teaching license filed in the county clerk’s office pursuant to §§ 6-13-620, 6-17-401, and 6-17-408.

“(b) The teacher contracts, teaching certificates, and teaching licenses shall be

destroyed in a manner that will protect the confidentiality of personally identifiable information including the name, residence address, and social security number of the teacher who is the subject of the contract, teaching certificate, or teaching license.”

Amendments. The 2007 amendment by No. 617 added the (A) and (B) designations in (a)(14); substituted “education service cooperative” for “educational cooperative” in (a)(14)(A) and in (b); and substituted “The education service cooperative” for “the cooperative” in (a)(14)(B).

The 2007 amendment by No. 710 substituted “three (3)” for “four (4)” in (a)(4)(B); substituted “school district board of directors” for “board” in (a)(4)(B)(i); redesignated former (a)(4)(B)(iii) as present (a)(4)(B)(iii)(a); added (a)(4)(B)(iii)(b); and deleted former (a)(4)(B)(iv).

The 2007 amendment by No. 1573 deleted former (b) through (d).

Meaning of “this act”. Acts 1931, No. 169, codified as §§ 6-10-101 — 6-10-104, 6-10-107, 6-11-101 — 6-11-105, 6-11-106 [repealed], 6-11-107, 6-11-110, 6-11-111, 6-11-117, 6-12-109 [repealed], 6-12-206 [repealed], 6-13-101 — 6-13-104, 6-13-619, 6-13-620, 6-14-104 [repealed], 6-14-118, 6-16-103 — 6-16-105, 6-16-107, 6-17-101, 6-17-104, 6-17-105 [repealed], 6-17-401, 6-17-405 [repealed], 6-18-217, 6-18-219, 6-18-501, 6-18-507, 6-18-701, 6-19-102, 6-20-202 — 204, 6-20-208 [repealed], 6-20-215 — 6-20-217, 6-20-220 [repealed], 6-20-221, 6-20-222, 6-20-403, 6-20-408 [repealed], 6-20-1201, 6-20-1204 — 6-20-1215, 6-21-101, 6-21-602 [repealed], 6-21-604 — 6-21-606, 6-51-211 — 6-51-215, 26-80-101, 26-80-102, 26-80-104.

Effective Dates. Acts 1999, No. 1078, § 92: July 1, 2000.

Cross References. Sixteenth section school lands, §§ 6-13-108 and 22-5-407.

RESEARCH REFERENCES

Ark. L. Rev. The Emerging Law of Students’ Rights, 23 Ark. L. Rev. 619.

School Board Members’ Immunity from

§ 1983 Suits — Wood v. Strickland, 29 Ark. L. Rev. 554.

CASE NOTES

ANALYSIS

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In General.

School directors could exercise powers expressly conferred upon them or powers necessary for the due and efficient exercise of express powers or which might be fairly implied from the statute granting the express powers. *A.H. Andrews Co. v. Delight Special Sch. Dist.*, 95 Ark. 26, 128 S.W. 361 (1910); *Scott v. Magazine Special School Dist.*, 173 Ark. 1077, 294 S.W. 365 (1927) (decision under prior law).

Persons who dealt with school officers were presumed to have knowledge of the extent of officers' powers. *Arkansas Nat'l Bank v. School Dist.*, 152 Ark. 507, 238 S.W. 630 (1922) (decision under prior law).

Borrowing Money.

The power of a school district to borrow money and pay interest is granted by this section and power was not repealed by §§ 6-20-401, 6-20-402, 6-20-410 limiting school district's expenditure to amount of revenue for the school year, though those sections repealed the power to borrow from next year's revenue. *Jenson v. Special School Dist.*, 199 Ark. 886, 136 S.W.2d 169 (1940).

Power to borrow money conferred on school districts carries with it the power to issue evidences of indebtedness therefor and to pay interest thereon, but since this section does not fix or limit the rate of interest that may be paid, district was not authorized to contract for payment of interest in excess of the legal rate. *Jenson v.*

Special School Dist., 199 Ark. 886, 136 S.W.2d 169 (1940).

Closing Schools.

There was no abuse of discretion on the part of the board in closing a grade school where evidence sustained finding that the school was inefficient, both educationally and economically. *Evans v. McKinley*, 234 Ark. 472, 352 S.W.2d 829 (1962).

Consolidation and Annexation.

The directors of a school district may resist proceedings to annex a portion of their property to another district. *School Dist. v. Rural Special School Dist.*, 128 Ark. 383, 194 S.W. 241 (1917) (decision under prior law).

An alleged agreement between the directors of two adjoining school districts that one district would not seek to acquire territory from the other district was not binding on the districts and therefore did not prevent taxpayers from petitioning for a consolidation of those districts. *School Dist. No. 18 v. Grubbs Special Sch. Dist.*, 184 Ark. 863, 43 S.W.2d 765 (1931) (decision under prior law).

De Facto Officers.

De facto school director was authorized to execute contracts with third persons which were binding on the school district. *School Dist. v. Garrison*, 90 Ark. 335, 119 S.W. 275 (1909); *School Dist. v. McClain*, 185 Ark. 658, 48 S.W.2d 841 (1932) (decision under prior law).

Directors' Discretion.

In this state a broad discretion is vested in the board of directors of each school district in the matter of directing the operation of the schools and a chancery court has no power to interfere with boards in the exercise of that discretion unless there is a clear abuse of it and the burden is upon those charging such an abuse to prove it by clear and convincing evidence. *Safferstone v. Tucker*, 235 Ark. 70, 357 S.W.2d 3 (1962).

Employment Contracts.

School directors were not authorized to make a parol contract for the hire of a teacher. *Griggs v. School Dist.*, 87 Ark. 93, 112 S.W. 215 (1908) (decision under prior law).

Only written contracts to teach school could be made by school directors, and parol evidence to vary the terms of a contract was inadmissible. *Marr v. School Dist.*, 107 Ark. 305, 154 S.W. 944 (1913) (decision under prior law).

While the requirement that contracts for employment of teachers by school districts be in writing was mandatory, a verbal contract could be ratified by a district by accepting the teacher's services, but in the case of partial performance, the ratification extended only to the period of performance. *Bald Knob Special Sch. Dist. v. McDonald*, 171 Ark. 72, 283 S.W. 22 (1926) (decision under prior law).

Provisions of subdivision (3) (now subdivision (4)) that contracts of teachers and other employees are to be in writing is mandatory. *Johnson v. Wert*, 225 Ark. 91, 279 S.W.2d 274 (1955).

Requirement of a valid contract was never consummated and action of board in rescinding its action in voting to reemploy superintendent was effective. *Johnson v. Wert*, 225 Ark. 91, 279 S.W.2d 274 (1955).

There is no statutory requirement that school custodians be employed by contract, much less that their contracts be subject to a contingency such as the one contained in subdivision (11) (now subdivision (12)), but having elected to enter into a contract which did not provide for such a contingency, the school district and the custodial employee were equally bound to honor its terms. *Calico Rock School Dist. v. Speak*, 293 Ark. 206, 736 S.W.2d 10 (1987).

Under this section, the sole power to execute and to terminate a teacher's contract is vested in a school district's board of education; obviously, the legislature was mindful of that rule when it passed § 6-17-1506, as that section provides for a resignation to be delivered to the school board. *Teague v. Walnut Ridge Sch.*, 315 Ark. 424, 868 S.W.2d 56 (1993), limited, *Western Grove Sch. Dist. v. Terry*, 318 Ark. 316, 885 S.W.2d 300 (1994).

Liability of Directors.

Where school directors acted in good faith believing at the time that they had authority under the statutes to expend money for the purposes for which they issued warrants, they were not liable to the district individually for money so expended even though they had no such

authority. *Hendrix v. Morris*, 134 Ark. 358, 203 S.W. 1008 (1918) (decision under prior law).

Liability of School Principals.

It cannot be held as a matter of law that this section and §§ 6-17-302 and 6-17-919 absolutely bar an action against a school principal for damages allegedly caused by his actions in excess of his authority. *Hart v. Bridges*, 30 Ark. App. 262, 786 S.W.2d 589 (1990).

Number of Directors.

When there were only two school directors in a school district qualified to act, they could bind the district by their acts. *Marr v. School Dist.*, 107 Ark. 305, 154 S.W. 944 (1913) (decision under prior law).

Religious Practices.

Religious exercises held prohibited by the establishment clause of the First Amendment to the constitution as made applicable to the states by the Fourteenth Amendment and thereby could not be approved or condoned by policies of the directors of a county school district, its agents and employees. *Goodwin v. Cross County School Dist.*, 394 F. Supp. 417 (E.D. Ark. 1973).

School Property.

In a lease of school lands, it could be stipulated that the lessee should fence the lands and build tenant houses thereon. *School Dist. v. Gladish*, 111 Ark. 329, 163 S.W. 1193, 163 S.W. 1194 (1914) (decision under prior law).

The directors of a school district could build an addition to an existing schoolhouse without authorization from the annual school meeting. *King v. Tuggles*, 140 Ark. 405, 215 S.W. 613 (1919) (decision under prior law).

It was within the authority of directors to change the site of the schoolhouse. *Thompson v. State*, 151 Ark. 369, 236 S.W. 608 (1922) (decision under prior law).

Where the sale of school property was within the scope of the powers of school directors they were the exclusive judges of the necessity of making the sale and the application of the proceeds. *Scott v. Magazine Special School Dist.*, 173 Ark. 1077, 294 S.W. 365 (1927) (decision under prior law).

The sale of school property partially in consideration of an agreement that the

purchasers would maintain a school and receive pupils sent by the director of school districts was authorized. *Scott v. Magazine Special School Dist.*, 173 Ark. 1077, 294 S.W. 365 (1927) (decision under prior law).

The school district had the power to buy and to sell property involved in boundary dispute under direct power conferred by statute. *Jewel v. Shiloh Cem. Ass'n*, 224 Ark. 324, 273 S.W.2d 19 (1954).

Student Conduct.

Rule prohibiting cosmetics not unreasonable. *Pugsley v. Sellmeyer*, 158 Ark. 247, 250 S.W. 538, 30 A.L.R. 1212 (1923) (decision under prior law).

Rules making students who participated in secret groups ineligible for certain school honors and activities were within the duty of doing all things necessary for conduct of efficient free school system as provided in subdivision (12) (now subdivision (13)). *Isgrig v. Srygley*, 210 Ark. 580, 197 S.W.2d 39 (1946).

Supplies.

A contract made by a single school district director for supplies was not beyond the powers conferred on such director and therefore was not incapable of ratification. *Beckley-Cardy Co. v. West Point Special School Dist.*, 209 Ark. 792, 192 S.W.2d 540 (1946).

Taxation.

Under subdivisions (3) and (12) (now subdivisions (4) and (13)) of this section, school districts had authority to coopera-

tively employ a tax representative to prepare the list of taxpayers to be filed with the county assessor under § 26-26-705 to attempt to discover new construction and other property not listed for taxation, to appraise the property, and to submit that information to the appropriate district. *Burnett v. Nix*, 244 Ark. 235, 424 S.W.2d 537 (1968).

After ascertaining the rate of taxation necessary to raise money for the construction and operation of schools, the school district board of directors must see that that rate is placed upon election ballots to be approved or rejected by the voters. *Henry v. Stuart*, 251 Ark. 415, 473 S.W.2d 165 (1971).

Teachers' Contracts.

Nothing in the law requires the board to actually name the person it purports to employ. *Love v. Smackover Sch. Dist.*, 322 Ark. 1, 907 S.W.2d 136 (1995).

—Signature.

Where neither the secretary of the board nor a majority of the members of the board had signed principal's proposed renewal contract, no contract had been created. *Morton v. Hampton School Dist.*, 16 Ark. App. 264, 700 S.W.2d 373 (1985).

Cited: *White v. Jenkins*, 213 Ark. 119, 209 S.W.2d 457 (1948); *Johnson v. Robbins*, 223 Ark. 150, 264 S.W.2d 640 (1954); *Garrett v. Faubus*, 230 Ark. 445, 323 S.W.2d 877 (1959); *Morrilton School Dist. v. United States*, 606 F.2d 222 (8th Cir. 1979); *Carter v. Arkansas*, 392 F.3d 965 (8th Cir. 2004); *Crenshaw v. Eudora Sch. Dist.*, 362 Ark. 288, 208 S.W.3d 206 (2005).

6-13-621. Authority to convey section lands.

The board of directors of each school district in this state shall hereafter have authority to convey any of the school district's sixteenth section lands in exchange for any other land which would be more beneficial to the school district.

History. Acts 1995, No. 393, § 1.

Publisher's Notes. Former § 6-13-621, concerning the city superintendent, was repealed by Acts 1993, No. 294, § 7. The section was derived from Acts 1931,

No. 169, § 40; Pope's Dig., § 11469; A.S.A. 1947, § 80-534.

Cross References. Sixteenth section school lands, §§ 6-13-108 and 22-5-407.

6-13-622. Publication of budget.

(a) The requirement of Arkansas Constitution, Amendment 40, for publication of the budget shall be discharged by the board of directors of each school district by publication of its budget one (1) time in some newspaper published in the county in which the school district lies or, if the school district lies in more than one (1) county, in the county in which the school district is administered.

(b) The publication shall be made not less than sixty (60) days before the school election at which the annual ad valorem property tax for the school district is decided by the electors.

History. Acts 1951, No. 403, § 4; A.S.A. 1947, § 80-538; Acts 2003, No. 1280, § 1.

6-13-623. Legal proceedings — Employment of counsel.

(a) Notwithstanding any provision of law, the governing authority of any school district in the State of Arkansas is authorized to employ legal counsel to defend it, any member thereof, or any school official in any legal proceeding to which the board of directors, any member thereof, or any school official may be a defendant, which such proceeding is instituted against it, or against any member thereof, by virtue of his actions in connection with his duties as such member.

(b) All costs, expenses, and liabilities of proceedings so defended shall be a charge against the school district and paid out of funds provided by the governing body of the school district.

History. Acts 1957, No. 86, §§ 1, 2; A.S.A. 1947, §§ 80-540, 80-541.

6-13-624. Oil, gas, and mineral leases.

(a) The directors of any common or special school district of this state shall have full and complete authority without any authorization by electors of the school district to execute and deliver oil, gas, and mineral leases upon the lands of the school district, which leases are to contain such terms and are to be given for such consideration as is acceptable to the directors.

(b) Any and all oil, gas, and mineral leases covering lands of any such school district, hereafter executed by the directors of the school district, shall be valid and effectual and binding on the school district.

(c) All oil, gas, and mineral leases covering the lands of any common or special school district of this state which have been made and executed by the directors of the school district are declared to be binding on the school district and effectual for all the purposes therein set out.

History. Acts 1925, No. 138, §§ 1, 2; Pope's Dig., §§ 11770, 11771; A.S.A. 1947, §§ 80-513, 80-514.

6-13-625. Liability insurance.

The boards of directors of the respective school districts of this state may, upon approval of the majority of the members thereof, purchase liability insurance to protect the individual members of the board of directors from legal liability for activities arising out of duties as a director, including liability arising out of alleged malfeasance, errors, omissions, wrongful acts not related to bodily injury or property damage, and other actions taken in the performance of their duties as directors. The board of directors may pay the premium on the liability insurance policy from funds belonging to the school district.

History. Acts 1973, No. 629, § 1; A.S.A. 1947, § 80-548.

6-13-626. Access of military recruiters to school facilities and records.

If the board of directors of a school district permits access to the school grounds, facilities, and records by any person or group of persons whose purpose is to make students aware of occupational and educational options and opportunities, the board of directors shall also permit such access on the same basis to official recruiting representatives of the military forces of the state and the United States to enable those representatives to inform students of educational and career opportunities available in the military.

History. Acts 1981, No. 254, § 1; A.S.A. 1947, § 80-550.

6-13-627. [Repealed.]

Publisher's Notes. This section, concerning drug abuse prevention coordinators, was repealed by Acts 1999, No. 100, § 4. The section was derived from Acts 1985, No. 1023, §§ 1-3; 1985, No. 1056, §§ 1-3; A.S.A. 1947, §§ 80-1921 — 80-1923.

6-13-628. Purchases in small communities without bids.

Whenever any school in a school district in any county of this state having a population of less than six thousand (6,000), according to the most recent federal census, is located in a community in which there is only one (1) store selling school supplies or furnishings, the school district may purchase such supplies or furnishings from the store irrespective of any laws of this state regarding the taking of bids for school purchases or laws prohibiting the selling of supplies and furnishings to any school district by a member of the school district board of directors.

History. Acts 1959, No. 80, § 1; A.S.A. 1947, § 80-539.

6-13-629. Training and instruction — Reimbursement.

(a)(1)(A) All members of a local school district board of directors who have served on the board of directors for twelve (12) or more consecutive months shall obtain no less than six (6) hours of training and instruction by December 31 of each calendar year.

(B) All members of a school district board of directors elected for an initial or non-continuous term shall obtain no less than nine (9) hours of training and instruction by December 31 of the calendar year following the year in which they were elected.

(2) The training and instruction required under this section shall include topics relevant to school laws, school operations, and the powers, duties, and responsibilities of the members of the board of directors, including, but not limited to, legal requirements, role differentiation, financial management, and improving student achievement.

(3) Hours of training and instruction obtained in excess of the minimum requirements each year may accumulate and be carried forward from year to year.

(4) This instruction may be received from an institution of higher learning in this state, from instruction sponsored or approved by the Department of Education, or by an in-service training program conducted by or through the Arkansas School Boards Association.

(5) A school district shall maintain a record of hours of training and instruction for board members, which may be in the form of an attested, cumulative annual report from the training providers and which shall be subject to verification and inspection during the school district's annual audit.

(b) Local school district boards of directors are authorized to pay per diem and other necessary expenses from funds belonging to the school district and to reimburse school board directors for expenses incurred in attending in-service workshops, conferences, and other courses of training and instruction required in completing the training and instruction as required in subsection (a) of this section.

(c)(1) The State Board of Education shall promulgate rules, which may be included in the Standards for Accreditation of Arkansas Public Schools and School Districts, requiring that a statement of the hours of training and instruction obtained by each member of a school district board of directors in the preceding year be:

(A) Part of the comprehensive school plan and goals;

(B) Published in the same way that other components of the comprehensive school plan and goals are required to be published; and

(C) Made a part of the annual school performance report under § 6-15-1402.

(2) The state board shall promulgate rules as necessary to carry out the provisions and intent of this section.

History. Acts 1987, No. 767, §§ 1, 2; 2005, No. 1775, § 1.

Amendments. The 2005 amendment rewrote (a); substituted "the training and"

for "a minimum of six (6) hours of" in (b); § 2, provided: "This act shall be effective and added (c). beginning January 1, 2006."

Effective Dates. Acts 2005, No. 1775,

6-13-630. Election by zone and at large.

(a) The board of directors of any school district shall have the authority to provide by resolution adopted by a majority vote that a portion of the board members shall be elected by zone, at large, or a combination thereof. A candidate for a position to be elected by zones shall reside in the zone. The names of the candidates for at-large board positions shall appear upon the ballots throughout the school district.

(b) The resolution adopted by the board of directors shall prescribe the procedure for implementing the reorganization within four (4) years after the date of the passage of the resolution.

(c) Every such resolution adopted by the board of directors of such school district shall adopt a plan of election for members of the board of directors which will cause the selection procedures to be in compliance with the federal Voting Rights Act of 1965.

(d) The board of directors of the school district shall cause the resolution to be published at least thirty (30) days prior to the filing deadline for the next regular school election after the adoption of the resolution.

History. Acts 1989, No. 185, § 1.

U.S. Code. The Voting Rights Act of

Publisher's Notes. Acts 1989, No. 185, § 2, provided that nothing in this act shall be construed to repeal § 6-13-607.

1965, referred to in this section, is codified as 42 U.S.C. §§ 1971, 1973 et seq.

6-13-631. Effect of minority population on election.

(a) Beginning with the 1994 annual school election, the qualified electors of a school district having a ten percent (10%) or greater minority population out of the total population, as reported by the most recent federal decennial census information, shall elect the members of the board of directors as authorized in this section, utilizing selection procedures in compliance with the federal Voting Rights Act of 1965, as amended.

(b)(1) At least ninety (90) days before the election, the local board of directors shall:

(A) By resolution, choose to elect members of the board of directors from five (5) or seven (7) single-member zones or from five (5) single-member zones and two (2) at large; and

(B) With the approval of the controlling county board of election commissioners, divide each school district having a ten percent (10%) or greater minority population into five (5) or seven (7) single-member zones in accordance with the federal Voting Rights Act of 1965, as amended.

(2) Zones shall have substantially equal population, with boundaries based on the most recent available federal decennial census information.

(c) A board of directors choosing to elect members of the board of directors by five (5) single-member zones and two (2) at-large positions may fill the two (2) at-large positions by drawing lots from among the current members of the board of directors.

(d)(1)(A) A candidate for election from a single-member zone must be a qualified elector and a resident of the zone.

(B) A candidate for an at-large position must be a qualified elector and a resident of the school district.

(2)(A) Except as provided in subsection (e) of this section, a member of a school district board of directors shall serve a five-year term.

(B) A term shall commence when the county court declares the results of the election by an order entered of record.

(e) At the first meeting of a new board of directors, the members shall establish initial terms by lot so that, to the extent possible, an equal number of positions are filled each year and not more than two (2) members' terms expire each year.

(f)(1) After each federal decennial census and at least ninety (90) days before the annual school election, the local board of directors, with the approval of the controlling county board of election commissioners, shall divide each school district having a ten percent (10%) or greater minority population into single-member zones. The zones shall be based on the most recent federal decennial census information and be substantially equal in population.

(2) At the annual school election following the rezoning, a new school board of directors shall be elected in accordance with procedures set forth in this section.

(g)(1) The following school districts shall be exempt from the provisions of this section:

(A) A school district that is currently operating under a federal court order enforcing school desegregation or the federal Voting Rights Act of 1965, as amended;

(B) A school district that is operating under a preconsolidation agreement that is in compliance with the federal Voting Rights Act of 1965, as amended;

(C) A school district that has a zoned board of directors meeting the requirements of the federal Voting Rights Act of 1965, as amended; and

(D) A school district that a federal court has ruled is not in violation of the federal Voting Rights Act of 1965, as amended, so long as the court order is in effect.

(2) A school district which on August 13, 1993, was in the process of defending a lawsuit brought under the federal Voting Rights Act of 1965, as amended, shall also be exempt from the provisions of this section until such time as the lawsuit has been finally resolved.

(3)(A) A school district released from operating under a federal court order enforcing school desegregation shall comply with the provisions of this section.

(B) The school district shall use the most recent federal decennial census information to create zones pursuant to this section within

one hundred eighty (180) calendar days after the release from the court order.

(h)(1) On or before August 1, 2002, and every decade thereafter, each and every school district shall submit to the Department of Education a letter stating whether or not its school board of directors falls under this section. In that same letter, each school district that falls under this section shall state how it has complied with this section. Furthermore, in the same letter, any school district that believes that it is exempt from this section shall state under which provision it is exempt.

(2) The department shall withhold twenty percent (20%) of the annual state funds allocation to a school district not in compliance with this section.

(i) The State Board of Education is hereby authorized to adopt rules and regulations necessary for the implementation of this section.

History. Acts 1993, No. 786, § 1; 1993, No. 1169, § 1; 1994 (2nd Ex. Sess.), No. 57, § 2; 1994 (2nd Ex. Sess.), No. 58, § 2; 1999, No. 1078, § 39; 2001, No. 1716, § 1.

Cross References. Minorities in Arkansas Act of 2001, § 1-2-501 et seq.

Effective Dates. Acts 1999, No. 1078, § 92; July 1, 2000.

U.S. Code. The federal Voting Rights Act of 1965, referred to in this section, is codified as 42 U.S.C. § 1971 et seq.

CASE NOTES

ANALYSIS

In General.

Rezoning of Boundaries.

Voting Rights Act.

In General.

This section clearly does not represent any unconstitutional effort to reduce black political opportunity and does not involve majority vote requirements for run-offs. Conway Sch. Dist. v. Wilhoit, 854 F. Supp. 1430 (E.D. Ark. 1994).

The legislature had no obligation to submit for preclearance the change toward single-member systems in school board elections embodied in this section. Conway Sch. Dist. v. Wilhoit, 854 F. Supp. 1430 (E.D. Ark. 1994).

Where school district changed to a zone-election system because its black voting-age population totaled over 50 percent, and where subsection (e) of this section required that the school board members had to draw lots, so that no more than two positions were open for election at the same time, the candidates argued that this section required that a new board had to be elected any time a district engaged in rezoning of boundaries; however, under subsection (g)(1) of this section, there

were clear exemptions that allowed a school district to deviate from the requirements of this section. Fields v. Marvell Sch. Dist., 352 Ark. 483, 102 S.W.3d 502 (2003).

Rezoning of Boundaries.

School district met the exceptions set out in the applicable statute as operating under a 1971 federal desegregation order, as well as having a zoned school board, meeting the requirements of the Voting Rights Act of 1965, 42 U.S.C.S. 1973c. Accordingly, the argument that this section required that a new board had to be elected any time a district engaged in rezoning of boundaries, was rejected, and the trial court's decision that the only seat open for election was one expired at-large position, was affirmed. Fields v. Marvell Sch. Dist., 352 Ark. 483, 102 S.W.3d 502 (2003).

Voting Rights Act.

School district, which filed a complaint requesting entry of an order stating that the school district was in compliance with the Voting Rights Act of 1965 (42 U.S.C. § 1973) and therefore did not have to elect by single-member zones as required by this section, lacked standing to bring an

action under the federal act. Conway Sch. Dist. v. Wilhoit, 854 F. Supp. 1430 (E.D. Ark. 1994). **Cited:** Harvell v. Blytheville Sch. Dist. No. 5, 126 F.3d 1038 (8th Cir. 1997).

6-13-632. Adequate meeting facilities required.

(a) The board of directors of schools with an average daily membership of at least twenty-five thousand (25,000) shall hereafter hold all school board of director meetings and public hearings in facilities that will adequately accommodate individuals with disabilities and the number of patrons anticipated to attend.

(b) If a single room is not large enough or adequate to accommodate individuals with disabilities and the number of patrons who attend, the board of directors shall utilize closed-circuit television or other means which will assure full participation by all in attendance.

History. Acts 1993, No. 891, § 1.

this section has been replaced with "individuals with disabilities".

A.C.R.C. Notes. Pursuant to Acts 2007, No. 515, § 1, the term "the disabled" in

6-13-633. Vacancy.

If a member of the board of directors of a school district no longer resides in the school district, a vacancy shall exist and the vacancy shall be filled as provided by law.

History. Acts 1999, No. 898, § 1.

6-13-634. School district board of directors — Size.

(a) All school districts shall have a board of directors with five (5) members or seven (7) members or nine (9) members in the case of a school district having an average daily attendance of twenty-four thousand (24,000) or more.

(b) Subsection (a) of this section shall not apply to those school districts that have a board of directors of seven (7) members, or in the case of a school district having an average daily attendance of twenty-four thousand (24,000) or more, nine (9) members, if that school district is operating under a court order or a consolidation agreement that provides for a board of directors.

(c)(1) No board of directors shall have an even number of directors.

(2) No less than ninety (90) days prior to the next annual school election, any school district with an even number of directors shall file a petition with the State Board of Education to establish the requisite odd number of directors.

(3) If the number of members of a board of directors needs to be reduced to create an odd number of directors, the board of directors in office on August 12, 2005 shall draw lots to determine which board positions will be eliminated.

(d) Any change in the number of directors serving on the local school board of directors required under this section shall be effective upon the directors taking office following the 2005 annual school election.

History. Acts 1999, No. 1078, § 29; 2005, No. 2151, § 13.

Amendments. The 2005 amendment, in (a), deleted “As of July 1, 2000” from the beginning and substituted “five (5) members, seven (7) members, or no more than nine (9)” for “no fewer than five (5), and no

more than seven (7) members, or nine (9)”; substituted “seven (7) members or nine (9)” for “more than seven (7) members, or no more than nine (9)” in (b); and added (c) and (d).

Effective Dates. Acts 1999, No. 1078, § 92: July 1, 2000.

SUBCHAPTER 7 — SCHOOL DISTRICT TREASURER

SECTION.

6-13-701. Powers and duties.

6-13-702. [Repealed.]

SECTION.

6-13-703. [Repealed.]

Effective Dates. Acts 1931, No. 169, § 198: approved Mar. 25, 1931. Emergency clause provided: “It is found as a fact that the advent of the automobile, and the great improvement in the roads of the State have worked great changes in the system of administering the public schools of the State, and there is occasion to change the boundaries of many such districts before the end of the current school term, to relieve many of them of pressing indebtedness, to immediately administer to the health of many pupils in the schools, and to distribute State Funds to many of the schools in the near future to prevent some of them from having to close for the lack of funds; therefore, it is necessary that this act take immediate effect for the preservation of public peace, health, and safety; therefore, an emergency is declared and this act shall take effect and be in force immediately after its passage.”

Acts 1943, No. 269, § 9: Mar. 18, 1943. Emergency clause provided: “Because of the confusion that has arisen in ascertaining the true financial condition of many of

the larger school districts in the state, and because of the inability of the officials of said school districts to ascertain the true financial condition of such districts, resulting in such districts often exceeding their revenue; Therefore, an emergency is hereby declared to exist, and this act, being necessary for the preservation of public peace, health, and safety, shall take effect and be in full force from and after its passage and approval.”

Acts 1947, No. 363, § 7: approved Mar. 28, 1947. Emergency clause provided: “It is hereby found to be a fact that several school districts have for several years operated with a treasurer of their own, and that there is some likelihood that laws have been enacted that in effect repeal the provision of law whereby said districts have operated with a separate treasurer, and that the best interest of said districts require their continued operation with a separate treasurer and that by reason of these facts an emergency is found and hereby declared to exist and this act shall take effect and be in full force and effect from and after its passage.”

Acts 1999, No. 1078, § 92: July 1, 2000.

6-13-701. Powers and duties.

(a) The board of directors of any school district in Arkansas is authorized to appoint a treasurer to handle the funds of the school district.

(b) The treasurer shall be appointed at a regular meeting of the board of directors.

(c) An executed certificate of appointment shall be filed with the county clerk, the county treasurer, and the Director of the Department of Finance and Administration.

(d) School district treasurers shall execute a surety bond in such amount as may be required by the director, who shall approve the bond. The premium on the bond shall be paid out of the funds of the school district.

(e) The duties of the school district treasurer shall be as follows:

(1) To receive and disburse funds of the school district. Disbursements of such funds shall be made only upon warrants signed by the president and secretary of the school district board of directors and countersigned by the superintendent of schools of the school district. As an evidence of authority for disbursement of any funds, he or she shall have on hand approved invoices and payrolls, such payrolls to be in conformance with written contracts on file in his or her office;

(2) To keep a record of all financial transactions of the school district on forms approved by the Department of Education and the Division of Legislative Audit;

(3) To make a monthly statement to the school district board of directors of the financial condition of the school district;

(4) To submit an annual statement of the affairs of the school district to the school district board of directors in July of each year;

(5) To make such financial reports to the Department of Education as are required by law;

(6) To not be interested directly or indirectly in any contract authorized by the school district board of directors;

(7) To make his or her records available at all times for inspection by any taxpayer of the school district; and

(8) To perform all duties now imposed by law upon the treasurer of a school district and to be subject to all regulations.

(f)(1) All local taxes of the school district shall be remitted to the county treasurer by the collector. The county treasurer shall remit the funds in a timely manner to the school district treasurer in those school districts maintaining a school district treasurer.

(2) The school district treasurer shall issue duplicate receipts for all funds he or she receives. The original shall be transmitted to the party making the remittance, and the duplicate shall be kept by the school district treasurer.

(g)(1) As used in this section, "activity funds" means those funds whose sources of revenues are from:

(A) The sale of tickets to athletic contests or other school-sponsored activities;

(B) The sale of food, except that which is sold in the lunchroom;

(C) The sale of soft drinks, school supplies, and books; and

(D) Fees charged by clubs and organizations.

(2)(A) All school districts may maintain activity funds and school service funds at the school.

(B) All activity funds and school food service funds shall be maintained and accounted for in accordance with guidelines and procedures established by the Department of Education.

(C) The superintendent of the school maintaining activity funds and school food service funds shall be the official custodian of all activity funds and school service funds and shall be responsible and accountable for the funds.

(D) By resolution adopted by a majority vote of the local school district board of directors, the superintendent may appoint another school employee to be the cocustodian of any or all activity funds and school food service funds.

(E) The cocustodian shall also be responsible and accountable for activity funds and school food service funds maintained by the cocustodian.

(h) The county treasurer shall receive as commission for handling the funds of such school districts only one-fourth of one percent (.25%) of all funds passing through his or her hands on which county treasurers are authorized by law to charge commissions.

(i) The records of the school district treasurers shall be audited by the division annually in the same manner as now provided for the auditing of county officials.

(j) The fraudulent use by the school district treasurer of any funds of the school district or by any school board members shall constitute a Class C felony. Upon conviction, such person shall be ordered to pay in restitution an amount double the amount involved.

History. Acts 1943, No. 269, §§ 1-7; A.S.A. 1947, §§ 80-521 — 80-527; Acts 1987, No. 764, § 2; 1993, No. 294, § 7; 1995, No. 233, § 2; 1999, No. 1078, § 40; 2005, No. 1994, § 418.

A.C.R.C. Notes. The operation of subsection (d) of this section was suspended by adoption of a self-insured fidelity bond program for public officers, officials and employees, effective July 20, 1987, pursuant to § 21-2-701 et seq. The subsection may again become effective upon cessa-

tion of coverage under that program. See § 21-2-703.

Amendments. The 2005 amendment inserted “or she” in (e)(1) and (f)(2); inserted “or her” in (e)(1), (e)(7), and (h); and, in (j), inserted “Class C,” substituted “ordered to pay in restitution” for “fined” and deleted “and imprisoned in the penitentiary for a term of one (1) to five (5) years” from the end of the last sentence.

Effective Dates. Acts 1999, No. 1078, § 92; July 1, 2000.

6-13-702. [Repealed.]

Publisher’s Notes. This section, concerning districts with more than 5,500 pupils and annual budget exceeding \$250,000, was repealed by Acts 1995, No.

233, § 21. The section was derived from Acts 1947, No. 363, §§ 1-6; A.S.A. 1947, §§ 80-528 — 80-533; Acts 1987, No. 764, § 1.

6-13-703. [Repealed.]

Publisher’s Notes. This section, concerning continuance of existing treasurer positions, was repealed by Acts 1993, No.

294, § 7. The section was derived from Acts 1931, No. 205, §§ 1, 2; Pope’s Dig.,

§§ 11738, 11739; A.S.A. 1947, §§ 80-519, 80-520.

SUBCHAPTER 8 — EDUCATIONAL COMPACTS GENERALLY

SECTION.

6-13-801. Authorization.

6-13-802. Provisions.

6-13-803. Approval by school district board of directors.

6-13-804. Approval by State Board of Education.

6-13-805. Amendments, alterations, and changes.

SECTION.

6-13-806. Indebtedness and pledge of millage.

6-13-807. Student residence unchanged.

6-13-808. The Arkansas Traveling Teacher Program.

6-13-801. Authorization.

(a) Any two (2) or more school districts in this state are authorized to enter into compacts, as authorized by this subchapter, to share or provide educational facilities, resources, and opportunities, including without limitation alternative educational programs, secondary area vocational centers, and community-based education programs that the boards of directors of the compacting school districts determine may be better and more efficiently provided by such compact agreements rather than by each school district acting in its individual capacity.

(b) If all of the school districts that have entered into a compact are within the service area of the same education service cooperative, that education service cooperative is also authorized to enter into the compact.

(c) The members of the compact may jointly enter into lease agreements for the purpose of renting facilities.

History. Acts 1961, No. 22, § 1; A.S.A. 1947, § 80-439; Acts 1999, No. 1554, § 1.

6-13-802. Provisions.

Compacts entered into under the provisions of this subchapter shall:

(1) Be in writing and specify the effective date thereof, the duration thereof, and provisions for termination of the compact, if any, desired by the compacting school districts;

(2) Include a description of the buildings, facilities, equipment, teachers, or other educational facilities or opportunities to be shared or provided under the compact agreement;

(3) Prescribe the method of financing the compact agreement, including the charges or allowances of each participating school district, the method of apportioning such finances, and such other requirements as may be necessary to establish the financial rights and obligations of each participating school district under the compact;

(4) Specify the rights and obligations of each school district upon termination of the compact agreement or upon withdrawal of any member school district from the compact agreement;

(5) Provide for the administration of the compact agreement by a compact board consisting of the president and secretary of each member school district and such additional members as the compact agreement may provide. All members of the compact board shall be members of the boards of directors of the participating compact school districts; and

(6) Contain such other provisions or limitations not inconsistent with this subchapter as may be necessary to accomplish the purpose of the compact agreement.

History. Acts 1961, No. 22, § 2; A.S.A. 1947, § 80-440.

6-13-803. Approval by school district board of directors.

(a) Before any compact shall become binding upon any member school district, the board of directors of each school district shall approve, by majority action of the entire membership, a resolution approving the compact agreement and the participation of the school district therein as specified in the provisions of the compact agreement.

(b) Before entering into any compact agreement under this subchapter, the board of directors of each member school district shall, by majority action of the members thereof, make a finding that the educational opportunities and services to be rendered or received by the school district and the cost thereof to the school district under the proposed compact are necessary, reasonable, and justified expenses of the school district.

History. Acts 1961, No. 22, § 3; A.S.A. 1947, § 80-441.

6-13-804. Approval by State Board of Education.

All compacts entered into under this subchapter shall be first submitted to and approved by the State Board of Education before the compacts shall become effective.

History. Acts 1961, No. 22, § 4; A.S.A. 1947, § 80-442.

6-13-805. Amendments, alterations, and changes.

Amendments, alterations, or changes in compact agreements may be made by the same methods and procedures as are provided in this subchapter for the establishment of compact agreements.

History. Acts 1961, No. 22, § 5; A.S.A. 1947, § 80-443.

6-13-806. Indebtedness and pledge of millage.

Nothing in this subchapter shall be construed to authorize any school district to incur bonded indebtedness and pledge millage rates for the acquisition of lands or the construction of buildings in any school district other than within the school district so incurring that indebtedness and pledging that millage.

History. Acts 1961, No. 22, § 6; A.S.A. 1947, § 80-444.

6-13-807. Student residence unchanged.

Children educated under compact agreements shall, for educational purposes, be considered as attending the school district of their residence.

History. Acts 1961, No. 22, § 7; A.S.A. 1947, § 80-445.

6-13-808. The Arkansas Traveling Teacher Program.

(a) The Arkansas Traveling Teacher Program is hereby established and shall be administered by the Department of Education with the assistance of public school districts and education service cooperatives.

(b)(1) Pursuant to the provisions of this section, and to the extent sufficient funding is available, the following persons and public school districts may enter into an agreement to provide traveling teacher services for one (1) or more receiving school districts for one (1) or more courses required by the Standards for Accreditation of Arkansas Public Schools and School Districts and any advanced placement courses required by § 6-16-1204:

(A) A traveling teacher who is appropriately licensed in Arkansas as a teacher and employed on a full-time equivalent basis by a host school district;

(B) A host school district that is an Arkansas public school district with a student population of eight thousand (8,000) students or fewer and that desires to provide traveling teacher services to a receiving school district; and

(C) A receiving school district that is a public school district other than the host school district and that desires to receive traveling teacher services.

(2) The parties shall enter into a written agreement, in the form established by the Department of Education, that shall include without limitation the following:

(A) That the traveling teacher is to provide professional teaching services to the receiving school district for one (1) or more required courses;

(B) The amount of the bonus to be provided to the traveling teacher under subdivision (c)(1)(A) of this section;

(C) For each course to be taught under the agreement:

- (i) A description of the course;
- (ii) The time and day for teaching each course; and
- (iii) The exact location where the course will be taught;
- (D)(i) Whether the agreement is for a school semester or a school year.

(ii) No agreement shall be for a time period longer than a school year or shorter than a school semester;

(E)(i) That the receiving school district will reimburse the host school district for the time the traveling teacher is not working in the host school district.

(ii) The reimbursement shall be the receiving school district's pro rata share of the traveling teacher's time based on the hourly rate of the traveling teacher's contract with the host school district;

(F) That at all times during the period of the agreement, the traveling teacher is an employee of the host school district and is subject to the personnel policies and contractual obligations of the host school district; and

(G)(i) That sufficient time will be allowed for the traveling teacher to travel to and from the host school district and the receiving school district.

(ii) The Department of Education shall not approve an agreement under this section unless the agreement requires the traveling teacher to be physically present in the receiving school district while the traveling teacher is teaching any course specified in the agreement.

(3) The agreement shall be reviewed and approved by the Department of Education under subsection (f) of this section.

(c) To the extent the agreement is approved by the Department of Education:

(1)(A) Upon completion of the traveling teacher's services provided under the agreement and under the terms of the agreement, the host school district shall pay the traveling teacher, in addition to the amount required by the teacher's annual teacher's contract with the host school district a bonus of either:

(i) Two thousand dollars (\$2,000) for a semester agreement; or

(ii) Four thousand dollars (\$4,000) for a full school year agreement.

(B) The Department of Education shall reimburse the host school district for the amount of bonus paid to the traveling teacher; and

(2)(A) The host school district shall reimburse the traveling teacher for expenses related to travel to and from a receiving school district at the appropriate state rate of reimbursement in existence and approved by the Department of Finance and Administration for the school year in which the traveling teacher's services are provided.

(B) The Department of Education shall reimburse the host school district for the amount of travel reimbursement paid by the host school district to the traveling teacher.

(d) Neither the Department of Education nor the State of Arkansas shall be obligated or liable to reimburse any bonus or travel expenses

incurred under an agreement for traveling teacher services under this section if the Department of Education has not reviewed and approved the entire agreement.

(e) The Department of Education may, if feasible and if funding is available, establish an online registry of public school teachers willing to enter into an agreement for traveling teacher services under this section with information concerning the teacher's employing school district and any course the teacher is qualified to teach.

(f)(1) All proposed agreements among a host school district, a receiving school district, and a traveling teacher shall be submitted to the Department of Education by a date certain for review and approval by the Department of Education.

(2) The Department of Education shall review each agreement with all requisite authority to approve or deny the agreement based on the provisions of law, rule, availability of funding, and discretionary determination as to the best use of state resources and funding.

(3) The Department of Education shall endeavor to consider approval of an agreement to:

(A) Place a traveling teacher with a receiving school district to maximize the efficiency of the traveling teacher's service to both the host and receiving school districts; and

(B) Minimize the extent and duration of any travel required.

(g)(1) The Department of Education shall establish any rules and agreement forms necessary for the administration of the Arkansas Traveling Teacher Program.

(2) In establishing the rules, the Department of Education shall:

(A) Prioritize the approval of agreements for traveling teacher services based on subject-area course needs;

(B) Establish appropriate travel limitations;

(C) Develop a method of equitable distribution of traveling teachers among the area's education service cooperatives; and

(D) Provide a means by which education service cooperatives may assist in facilitating traveling teachers.

(h) No provision of this section is intended or should be interpreted to waive any immunity or defense of the State of Arkansas or its various agencies, boards, or commissions and no person shall be deemed to have any legal entitlement, recourse, or cause of action against the State of Arkansas or its various agencies, boards, or commissions based on the terms, conditions, or provisions of this section.

(i) An agreement for traveling teacher services under this section is not governed by or subject to the provisions of The Teacher Fair Dismissal Act of 1983, § 6-17-1501 et seq.

History. Acts 2007, No. 1027, § 1.

SUBCHAPTER 9 — PUBLIC SCHOOL EDUCATIONAL COOPERATIVE ACT

SECTION.

6-13-901. Title.

6-13-902. Definitions.

6-13-903. Powers.

SECTION.

6-13-904. Agents for school districts.

6-13-905. Board of directors.

6-13-906. Rules, regulations, and reports.

Effective Dates. Acts 1981, No. 860, § 8; Mar. 28, 1981. Emergency clause provided: "It is hereby found and determined by the Seventy-Third General Assembly that the establishment of voluntary educational cooperatives is vital to the educational system of the State and that it is necessary to specifically designate such cooperatives as intermediate units in order to eliminate duplicating efforts on the

part of school districts, and that it is immediately necessary for this Act to go into effect to conserve funds for public education. Therefore, an emergency is hereby declared to exist and this Act being immediately necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

6-13-901. Title.

The title of this subchapter shall be "The Public School Educational Cooperative Act of 1981".

History. Acts 1981, No. 860, § 1; A.S.A. 1947, § 80-470.

6-13-902. Definitions.

As used in this subchapter:

(1) "Educational cooperative" means a voluntary association of school districts to share resources, personnel, materials, and equipment and to provide and improve services and programs to students; and

(2) "Public school district" means any public school district in the state serving students in a kindergarden through grade twelve (K-12) program or a grade one through grade twelve (1-12) program.

History. Acts 1981, No. 860, § 2; A.S.A. 1947, § 80-471.

CASE NOTES

Cited: Allred v. Arkansas Dep't of Cor. Sch. Dist., 322 Ark. 772, 912 S.W.2d 4 (1995).

6-13-903. Powers.

(a) Public school districts in the State of Arkansas are empowered to voluntarily agree to share programs, personnel, materials, and equip-

ment for the purpose of enlarging curriculum or services or providing new services to students in their respective school districts.

(b) The educational cooperatives are empowered to receive state, local, and federal funds that have been assigned to the educational cooperatives by the member school districts and are also empowered to spend those funds on behalf of the school districts assigning those funds.

(c) The Department of Education shall not distribute state equalization aid directly to any educational cooperative.

History. Acts 1981, No. 860, § 3; A.S.A. 1947, § 80-472; Acts 1999, No. 391, § 4.

6-13-904. Agents for school districts.

(a) The educational cooperatives will act as an agency for all or some of the member school districts in dealings with other governmental and private agencies.

(b) The educational cooperatives will have the power to contract and handle funds for the member school districts under conditions specified in the agreement between the member school districts and federal and state law and regulation.

History. Acts 1981, No. 860, § 4; A.S.A. 1947, § 80-473.

6-13-905. Board of directors.

(a) Each educational cooperative will be governed by a board of directors consisting of one (1) representative appointed by the board of directors of each cooperating school district.

(b) The board of directors shall be empowered to hire a director and other employees and to contract for services, supplies, and equipment.

(c) Policies for the operation of the educational cooperative will be developed by the board of directors and be filed with the Department of Education as required by law of school districts generally.

History. Acts 1981, No. 860, § 5; A.S.A. 1947, § 80-474; Acts 1999, No. 398, § 1.

6-13-906. Rules, regulations, and reports.

(a) The educational cooperative will:

(1) Abide by all rules and regulations of the Department of Education which apply to school districts generally; and

(2) Make all reports as required by law and regulation which apply to school districts generally to the department.

(b)(1) Records of the expenditures and receipts of the educational cooperatives shall be kept in such manner and on such forms as may be specified by the department or the School Audit Section of the Division of Legislative Audit.

(2) Reports on expenditures and receipts shall be made for the cooperative as a single agency or shall be made separately by the school districts to reflect the status of each member school district at such time and in such manner as specified by the department.

History. Acts 1981, No. 860, §§ 5, 6;
A.S.A. 1947, §§ 80-474, 80-475.

SUBCHAPTER 10 — EDUCATION SERVICE COOPERATIVE ACT

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- 6-13-1025. Mathematics and science center — Mathematics and science coordinator.
- 6-13-1026. Cooperatives qualify as local education agencies.

A.C.R.C. Notes. References to “this subchapter” in §§ 6-13-1001 — 6-13-1024 may not apply to §§ 6-13-1025 and 6-13-1026 which were enacted subsequently.

Cross References. Contributions and donations to educational service cooperatives deductible from state income tax, § 26-51-420.

Educational standards and quality generally, § 6-15-201 et seq.

Effective Dates. Acts 1985, No. 349, § 21: Mar. 14, 1985. Emergency clause provided: “It is hereby found and determined by the General Assembly that Education Service Cooperatives, as provided for in this Act, are essential if needed improvements are to be made in the public school programs of this State and that immediate action is necessary if such

Education Service Cooperatives are to be formed and ready for operation by the beginning of the 1985-86 school year. Therefore, an emergency is hereby declared to exist and this Act, being necessary for the immediate preservation of the public welfare, shall be in full force and effect from and after its passage and approval.”

Acts 1997, No. 1362, § 57: July 1, 1997. Emergency clause provided: “It is hereby found and determined by the Eighty-First General Assembly, that the provisions of Section 51 herein will provide the monies necessary to adequately fund the operations of the Department of Education each fiscal year of the 1997-99 biennium and must be made available for the 1997-98 fiscal year. Therefore, an emergency is

hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety, Section 51 of this Act shall be in full force and effect from and after its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, Section 51 shall become effective on the expi-

ration date of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, Section 51 shall become effective on the date the last house overrides the veto. The remaining sections of this Act shall become effective from and after July 1, 1997."

RESEARCH REFERENCES

U. Ark. Little Rock L.J. Legislative Survey, Education, 8 U. Ark. Little Rock L.J. 569.

6-13-1001. Title.

The title of this subchapter shall be "The Education Service Cooperative Act of 1985".

History. Acts 1985, No. 349, § 1; A.S.A. 1947, § 80-489.

6-13-1002. Education service cooperatives established — Functions.

(a) The State Board of Education is authorized to establish a statewide system of not more than fifteen (15) multicounty education service cooperatives of school districts. Such education service cooperatives shall be intermediate service units in the state's elementary and secondary education system and as such shall be eligible to receive and expend funds from state and federal governments, school districts, and other public or private sources.

(b) Education service cooperatives established by this subchapter will provide to school districts which choose to use them assistance in:

(1) Meeting or exceeding accreditation standards and equalizing educational opportunities;

(2) Using educational resources more effectively through cooperation among school districts; and

(3) Promoting coordination between school districts and the Department of Education in order to provide services which are consistent with the needs identified by school districts and the educational priorities of the state as established by the General Assembly or the state board.

History. Acts 1985, No. 349, § 2; A.S.A. 1947, § 80-489.1.

CASE NOTES**Immunity.**

An education service cooperative created pursuant to this subchapter was not

entitled to sovereign immunity. *Ozarks Unlimited Resources Coop. v. Daniels*, 333 Ark. 214, 969 S.W.2d 169 (1998).

6-13-1003. Boundaries — Adjustments.

(a) The State Board of Education shall establish tentative boundaries for the system of education service cooperatives authorized by this subchapter.

(b) These education service cooperatives will be established so that:

(1) They include at least three (3) but no more than nine (9) counties;

(2) They include at least ten (10) but no more than thirty-five (35) school districts;

(3) They include at least twenty thousand (20,000) pupils in kindergarten through grade twelve (K-12) average daily membership;

(4) They include at least one (1) postsecondary education institution; and

(5) There is no more than fifty (50) miles distance or approximately one (1) hour driving time to the area's main offices for ninety percent (90%) of the school districts.

(c) The state board may make adjustments in the boundaries when criteria such as minimum average daily membership and maximum driving distances conflict. However, no more than four (4) of the areas formed may contain fewer than twenty thousand (20,000) students. In no case shall any education service cooperative be established with fewer than twelve thousand (12,000) pupils.

History. Acts 1985, No. 349, § 3; A.S.A. 1947, § 80-489.2.

6-13-1004. Requests for establishment of education service cooperative — Requirements.

(a) Education service cooperatives shall be established when seventy-five percent (75%) of the school districts in a proposed education service cooperative area request such action by formal resolutions filed by the school district boards of directors with the Commissioner of Education.

(b) Each resolution shall, in addition to requesting establishment of an education service cooperative, indicate by name or position that school district's representative on the board of directors of the proposed education service cooperative.

(c) Requests must be filed by seventy-five percent (75%) of the school district boards of directors by May 1 if an education service cooperative is to be established for the following school year.

History. Acts 1985, No. 349, § 4; A.S.A. 1947, § 80-489.3.

6-13-1005. Alteration of boundaries.

(a) The State Board of Education, upon the request of one (1) or more school district boards of directors, and consistent with the provisions of § 6-13-1003, may alter the boundaries of a proposed or operational education service cooperative when it determines such alteration to be in the best interest of the school districts in the education service cooperatives involved.

(b) Consistent with provisions of § 6-13-1003, no member of an existing pilot cooperative established under Acts 1983 (1st Ex. Sess.), No. 103 [repealed] nor any member of an education service cooperative formed after January 1, 1984, under § 6-13-901 et seq., may be moved to another education service cooperative without that member's consent.

History. Acts 1985, No. 349, § 5; A.S.A. 1947, § 80-489.4.

6-13-1006. Board of directors.

(a) Each education service cooperative shall be governed by a board of directors consisting of one (1) representative appointed by each school district board of directors within the boundary of the education service cooperative.

(b) No school district may have official representation on more than one (1) education service cooperative board of directors.

(c) The board of directors of each established education service cooperative shall function as a public corporate body, shall meet, except as otherwise provided in § 6-13-1007, at least eight (8) times each year, and shall exercise general fiduciary responsibilities for the education service cooperative with regard to policies and practices which guard the integrity of the agency and maintain public trust in its operation.

(d) Such responsibilities, consistent with funds available, shall include, but not be limited to:

(1) Employment of a director of the education service cooperative who shall serve as the nonvoting executive officer of the board of directors;

(2) Establishment of policies and procedures for the operation and management of the education service cooperative which shall be in written form and shall be filed with the State Board of Education;

(3) Preparation of an annual budget estimating income and expenditures for programs and services in accordance with procedures established by the state board;

(4) Receipt and expenditure of funds needed to provide programs and services in the area;

(5) Making such surveys or other inquiries which may be required to determine the service needs of school districts in the education service cooperative and developing plans to provide such needed services;

(6) Employment, upon the recommendations of the director of the education service cooperative, of such personnel as may be required to provide the services requested by the school districts in the area;

(7) Implementation of policies established by the state board for the operation of education service cooperatives;

(8) Cooperation with other education service cooperatives, school districts, and other agencies to provide programs and services for children and adults residing within their respective areas;

(9) Renting, leasing, purchasing, constructing, or receiving by gift such facilities and buildings as may be required to provide authorized programs and services; and

(10) Carrying out such other duties as may be required for the efficient operation of the education service cooperative for which the board of directors is responsible.

History. Acts 1985, No. 349, § 10; A.S.A. 1947, § 80-489.9; Acts 1999, No. 398, § 2; 2005, No. 1181, § 1.

Amendments. The 2005 amendment inserted "purchasing, constructing" in (d)(9).

CASE NOTES

Cited: Ozarks Unlimited Resources Coop. v. Daniels, 333 Ark. 214, 969 S.W.2d 169 (1998).

6-13-1007. Executive committee.

(a)(1) In a meeting, with a majority of its members present and voting, the board of directors of an education service cooperative may elect from its membership an executive committee of seven (7), nine (9), or eleven (11) members.

(2) Candidates for the executive committee, if one is formed, shall be chosen so that the school districts within the education service cooperative are equitably represented.

(3) All subsequent members of the executive committee shall be elected by a majority vote of the board of directors in attendance at the annual meeting.

(b) The function of the executive committee shall be to carry out those duties delegated to it by the governing board of directors, the provisions of § 6-13-1006 notwithstanding.

(c) Terms of executive committee members shall be three (3) years except for the initial members which shall have terms assigned by lot so as to stagger terms to equalize as nearly as possible the number of members to be elected each year. Vacancies occurring after the annual meeting shall be filled by the executive committee until the next annual meeting.

(d) Should an executive committee be established in any education service cooperative, it shall meet at least nine (9) times per year, and the requirements for board of directors meetings shall be reduced to three (3) times annually. The president of the board of directors shall

serve as chair of the executive committee. No person, however, may serve in this position for more than two (2) consecutive years.

History. Acts 1985, No. 349, § 11;
A.S.A. 1947, § 80-489.10.

6-13-1008. Teacher center — Teacher center committee.

(a) Each education service cooperative shall establish a teacher center which will provide, consistent with funds available, curriculum development assistance, educational materials, and staff development services to teachers within the school districts in the service area.

(b) A teacher center committee, composed of at least one (1) representative from the staff of each school district, shall advise the director and the governing body on the staffing, programs, and operation of the teacher center.

(c) The governing body of each cooperative shall determine the initial composition of the teacher center committee to achieve a balance of elementary, middle school or junior high, and high school personnel and assure that at least one-half ($\frac{1}{2}$), but not more than two-thirds ($\frac{2}{3}$), of the members are classroom teachers.

(d) All positions on the committee shall be assigned to school districts by lot.

(e) Each teacher must be elected by colleagues in his or her school district, and each administrator or support person shall be appointed by the superintendent.

(f) Initial terms shall be determined by lot for equal or nearly equal periods of one (1), two (2), and three (3) years.

(g) Thereafter, terms shall be for three (3) years.

(h) The committee shall meet at least three (3) times per year.

(i) In the last meeting each year, positions represented by expiring terms shall be reassigned by lot.

History. Acts 1985, No. 349, § 12;
A.S.A. 1947, § 80-489.11.

6-13-1009. Cooperative committees generally.

Each education service cooperative may establish other committees of local school personnel needed to keep its programs responsive to the schools it serves.

History. Acts 1985, No. 349, § 13;
A.S.A. 1947, § 80-489.12.

6-13-1010. Director.

(a) Each education service cooperative shall be administered by a director who shall perform the following duties:

(1) Administer the programs and services of the education service cooperative;

(2) Recommend the employment of professional and nonprofessional personnel authorized by the education service cooperative's governing body;

(3) Prepare the budget for adoption by the education service cooperative's governing body;

(4) Direct expenditures of funds within the budget; and

(5) Perform other duties as required by the education service cooperative's governing body and the policies, rules, and regulations of the State Board of Education.

(b) The director of each education service cooperative shall:

(1) Hold an administrator's certificate and meet all requirements to serve as a superintendent of schools in the State of Arkansas; or

(2) Have an equivalent level of education and administrative experience and obtain the approval of the board.

(c) The governing body of any education service cooperative may enter into a contract with a director for a period not to exceed three (3) years.

History. Acts 1985, No. 349, § 16;
A.S.A. 1947, § 80-489.15.

6-13-1011. Personnel generally.

(a) Personnel of education service cooperatives shall be employed in accordance with laws, rules, regulations, and procedures applicable to the school districts of this state.

(b) Certificate requirements shall be the same as those expected of persons holding similar positions in local school districts.

(c) Termination or contract nonrenewal of education service cooperative personnel shall be as provided by law for the school district personnel.

History. Acts 1985, No. 349, § 17;
A.S.A. 1947, § 80-489.16.

6-13-1012. Agency personnel.

With the approval of an education service cooperative's governing body, the directors in the Department of Education may assign state educational agency personnel to that education service cooperative.

History. Acts 1985, No. 349, § 14;
A.S.A. 1947, § 80-489.13.

CASE NOTES

Cited: Ozarks Unlimited Resources
Coop. v. Daniels, 333 Ark. 214, 969 S.W.2d
169 (1998).

6-13-1013. Policies, rules, and regulations.

(a) The State Board of Education shall develop such policies, rules, and regulations as may be needed for the proper administration of this subchapter consistent with the need to support and assist education service cooperatives in the delivery of services to school districts and with prudent use of available human and financial resources.

(b) Such policies, rules, and regulations shall include, but not be limited to, those concerns that keep the education service cooperatives operating within appropriate state and federal laws and serve as guides for settling possible disputes between school districts and in equity or jurisdictional matters relating to shared assets and services.

History. Acts 1985, No. 349, § 14;
A.S.A. 1947, § 80-489.13.

6-13-1014. Sharing and coordination of activities — Liaison.

(a) The Department of Education shall encourage sharing and coordination of activities among the education service cooperatives.

(b) The Commissioner of Education shall name a person to serve as liaison between the department and the education service cooperatives.

(c) This liaison shall provide information on resources and programs and be the general contact person in the department for the education service cooperatives.

History. Acts 1985, No. 349, § 14;
A.S.A. 1947, § 80-489.13.

6-13-1015. Liaison with postsecondary institutions.

(a) Each education service cooperative, in carrying out its programs and services, shall cooperate with the various state-supported postsecondary educational institutions located within its area.

(b) Each such postsecondary institution, within the availability of funds and personnel, shall establish liaison with the education service cooperatives in its service area and assist them in all practical ways.

History. Acts 1985, No. 349, § 15;
A.S.A. 1947, § 80-489.14.

6-13-1016. Annual surveys and needs assessments.

(a) Each education service cooperative shall conduct annual surveys and needs assessments to assist the education service cooperative in its first priority of helping school districts improve their educational programs and practices.

(b) Such activities may include written surveys, visits to schools to meet with local personnel, and other means to identify local needs throughout the service area.

(c) Each education service cooperative shall work with the Department of Education to conduct statewide surveys which complement, rather than duplicate, the work of the department.

(d) The objective shall be to obtain statewide, area, and local data with as little duplication as possible.

History. Acts 1985, No. 349, § 7; A.S.A. 1947, § 80-489.6.

6-13-1017. Programs and services.

(a) The programs and services of each education service cooperative shall be based upon the needs of the school districts included in its service area and upon the educational priorities of the state.

(b) Each education service cooperative shall provide a teacher center as its basic curriculum and staff development capability.

(c) Education service cooperatives may provide shared educational programs and services such as needs assessment and school improvement planning, staff development, curriculum development, itinerant teachers, instructional materials, adult and vocational education, programs for gifted and talented, education for children with disabilities, alternative educational programs, secondary area vocational centers, community-based education programs and other services which the State Board of Education may approve or which school districts may support with local funds.

History. Acts 1985, No. 349, § 8; A.S.A. 1947, § 80-489.7; Acts 1993, No. 294, § 7; 1999, No. 1554, § 2.

6-13-1018. Participation of local school districts — Contracts.

(a) Each school district within the service area of the education service cooperative shall be entitled to participate in those programs and services which are fully supported by state funds.

(b) No school district shall be required to participate in any service.

(c) School districts may enter into contracts with the education service cooperative for services supported partially or completely by local school funds.

(d) School districts within one (1) education service cooperative may also contract for services with another education service cooperative.

History. Acts 1985, No. 349, § 9; A.S.A. 1947, § 80-489.8.

6-13-1019. Funding of education service cooperatives.

(a) The state shall provide funds to support the basic structure of the education service cooperatives established under the provisions of this subchapter.

(b) This structure shall include:

(1) Salaries and fringe benefits for a director, a teacher center coordinator, and support staff;

(2) Costs such as travel, utilities, rent, equipment, and supplies;

(3) Funds to support staff and curriculum development activities; and

(4) Funds in an annual amount not to exceed twenty-five thousand dollars (\$25,000) for the travel expenses of itinerant personnel employed by the education service cooperative to serve the part-time needs of local school districts.

(c) School districts may contract with their education service cooperative for services and part-time personnel to be supported in whole or in part by local funds, but no school district shall be assessed a membership fee.

(d) Categorical state or federal funds may also be assigned to any education service cooperative upon approval of its governing body and under conditions set by the State Board of Education.

(e) As a public agency, each education service cooperative shall be eligible to receive and expend public and private funds.

History. Acts 1985, No. 349, § 18;
A.S.A. 1947, § 80-489.17.

6-13-1020. Policies and procedures — Expenditures, reports, and audits.

(a)(1) The policies and procedures for each education service cooperative shall be filed with and approved by the State Board of Education. This report shall be filed on or before June 1 of each year and shall contain, but is not limited to, a record of the education service cooperative's employment policies and practices for the year. This annual employment record must include the race and sex of each person employed or terminated during the year by the education service cooperative and the race and sex of every person who sought employment with the education service cooperative during the year. The employment report must further disclose each person employed by the cooperative during the year who is related by blood or marriage to another employee or board member of the education service cooperative.

(2) Reports of receipts and expenditures shall also be filed with the state board on forms provided and time schedules set by the Commissioner of Education. These reports shall contain, but not be limited to, an itemization of administrative and programmatic expenditures. Expenditures shall be reported in accordance with uniform accounting procedures adopted by the Department of Education.

(3) Education service cooperatives shall be subject to annual audits by the Legislative Joint Auditing Committee.

(b) In an annual meeting of the board of directors which must be convened between May 15 and July 15, the education service cooperatives shall report to their constituent school districts on the year's

operations. Such reports shall be supplemented with written reports to each school district and to the department on a school-by-school, service-by-service accounting basis. Any balances in particular service accounts must be apportioned and returned to the schools involved or credited to their accounts for the following year.

History. Acts 1985, No. 349, § 19; A.S.A. 1947, § 80-489.18; Acts 1989, No. 610, § 1.

6-13-1021. Evaluations.

(a) Within each five-year period, on a schedule established by the Commissioner of Education, all active education service cooperatives must be visited by an evaluation committee of not more than nine (9) persons.

(b) Each evaluation shall include, but not be limited to, an investigation of user satisfaction, service adequacy, extent of local financial support, staff qualifications, and performance and administration effectiveness.

(c)(1) The report of this committee shall be filed with the education service cooperative visited, with its constituent school districts, and with the State Board of Education.

(2) The board shall acknowledge receipt of the report and comment on any deficiencies identified in the report which should be corrected for the cooperative to remain eligible for base funding.

(d) The intent of this evaluation procedure is to provide a means for school districts to express their concerns about the operation of their education service cooperative and to ensure that each education service cooperative remains alert and responsive to the needs of the local schools it serves.

(e)(1) For each evaluation, the commissioner shall appoint the committee and designate its chairperson.

(2) The committee shall include the following from outside the boundary of the education service cooperative being evaluated:

(A) A Department of Education staff member;

(B) A teacher;

(C) An administrator;

(D) A college staff member; and

(E) A present or former staff member of an area education service agency.

(3) In addition, the committee shall include from within the education service cooperative's area:

(A) A member of the school district board of directors;

(B) A representative of business and industry; and

(C) A school parent from each of two (2) school districts.

(4) Each education service cooperative shall pay the reasonable costs of its evaluation.

History. Acts 1985, No. 349, § 19;
A.S.A. 1947, § 80-489.18.

6-13-1022. Dissolution of education service cooperative.

(a) After 1990, the State Board of Education shall be authorized to dissolve any education service cooperative upon the request of a majority of its school district boards of directors or upon the recommendation of the evaluation committee provided for in § 6-13-1021.

(b) A dissolved education service cooperative's area shall be assigned to one (1) or more adjacent education service cooperatives, the provisions of § 6-13-1003 notwithstanding, with the dissolved education service cooperative's base funding apportioned to all remaining education service cooperatives in the state.

(c) After payment of debts, the assets of a dissolved education service cooperative shall be distributed to the school districts in its service area based on each school district's third-quarter average daily membership for the immediately preceding school year.

History. Acts 1985, No. 349, § 6; A.S.A. 1947, § 80-489.5; Acts 2005, No. 1181, § 2.
Amendments. The 2005 amendment added (c).

6-13-1023. Technology training center — Technology coordinator.

(a) Consistent with funds available and upon a majority vote of the members present and voting, the board of directors of each education service cooperative established under this subchapter is authorized to establish a technology training center and employ a technology coordinator who has demonstrated expertise in computer technology and staff development.

(b) The duties of the technology coordinator at such technology training center shall include, but not be limited to, the following:

(1) To provide staff development for personnel of member schools;

(2) To assist member schools with determining technology needs and types of computer hardware and software necessary to meet those needs;

(3) To assist with technology system analysis and local network design;

(4) To provide member schools with information on technology standards and specifications;

(5) To develop and coordinate a technology training center located at the education service cooperative;

(6) To coordinate information with the Arkansas Public School Computer Network, the Instructional Microcomputer Project for Arkansas Classrooms, and the Governor's Technology Task Force so that member schools will be informed on technological activity in the state; and

(7) To assist with requests for proposal development and bid analysis so that member schools will be better able to spend funds for technology.

History. Acts 1995, No. 842, § 1.

6-13-1024. [Repealed.]

Publisher's Notes. This section, concerning the Cooperative Education Services Coordinating Council, was repealed

by Acts 1999, No. 148, § 3. The section was derived from Acts 1997, No. 1362, § 34.

6-13-1025. Mathematics and science center — Mathematics and science coordinator.

(a) Consistent with funds available and upon a majority vote of the members present and voting, the board of directors of each education service cooperative established under this subchapter is authorized to establish a mathematics and science center and to employ a mathematics and science coordinator who has demonstrated expertise in mathematics and science content, in pedagogy, and in staff development.

(b) The duties of the mathematics and science coordinator at the mathematics and science resource center shall include, but not be limited to, the following:

(1) Providing mathematics and science staff development for and individual technical assistance to personnel of member schools;

(2) Assisting member schools with determining mathematics and science curricula, with instruction, and with assessment of needs and resources necessary to meet those needs;

(3) Enhancing curricula and instruction using technology;

(4) Providing member schools with information for curriculum alignment with mathematics and science standards and state frameworks;

(5) Developing and coordinating a mathematics and science resource center located at the education service cooperative; and

(6) Assisting with the development of requests for proposals for teacher enhancement in mathematics and science.

History. Acts 1997, No. 1283, § 1.

may not apply to this section which was enacted subsequently.

A.C.R.C. Notes. References to "this subchapter" in §§ 6-13-1001 — 6-13-1024

6-13-1026. Cooperatives qualify as local education agencies.

(a) The General Assembly designates that the education service cooperatives created by this subchapter meet the definition of "local education agencies" by virtue of the fact that each is a public authority, legally constituted within this state to perform a service function for a public elementary and secondary school in school districts and other political subdivisions of the state and to form a consortia of school districts which are recognized by the General Assembly as administrative agents for public elementary and secondary schools.

(b) This section intends to recognize the function of the cooperatives and to provide eligibility to cooperatives to receive state and federal funds upon written requests from the school districts.

History. Acts 2001, No. 1055, § 1.

Publisher's Notes. References to "this subchapter" in §§ 6-13-1001 through

6-13-1025 may not apply to this section which was enacted subsequently.

SUBCHAPTER 11 — MODEL RURAL SCHOOL CONSORTIUMS

SECTION.

6-13-1101. Legislative intent.

6-13-1102. Authority.

6-13-1103. [Repealed.]

SECTION.

6-13-1104. Powers and duties.

6-13-1105. [Repealed.]

6-13-1106. Criteria — Contingency.

Effective Dates. Acts 1995, No. 830, § 9; Mar. 29, 1995. Emergency clause provided: "It is hereby found and determined by the General Assembly of the State of Arkansas that the immediate effectiveness of this act is essential to the operation of the Arkansas Department of Education and the various school districts of

this state in planning for the 1995-96 school year. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health, and safety, shall be in full force and effect from and after its passage and approval."

6-13-1101. Legislative intent.

It is the purpose and intent of this subchapter to provide a procedure by which one (1) or more school districts located within this state may, by agreement, reflected by a majority vote of the respective boards of directors of the participating school districts, form a model rural early childhood consortium. It is anticipated that this model rural early childhood consortium would be established to exemplify the best practices available in rural early childhood education. It would further be the purpose of this consortium to serve as a training and development site for both students and teachers within the cooperating school districts. A model rural early childhood consortium created pursuant to the provisions of this subchapter may be organized in ways that are fundamentally different from the ways schools are now organized.

History. Acts 1989, No. 886, § 1; 1995, No. 830, § 1.

6-13-1102. Authority.

Pursuant to the provisions of this subchapter, one (1) or more school districts may by a majority vote of their respective boards of directors agree to create a model rural early childhood consortium for the purposes set forth in § 6-13-1101.

History. Acts 1989, No. 886, § 2; 1995, No. 830, § 2.

6-13-1103. [Repealed.]

Publisher's Notes. This section, concerning boundaries, was repealed by Acts

1995, No. 830, § 5. The section was derived from Acts 1989, No. 886, § 3.

6-13-1104. Powers and duties.

Any model rural early childhood consortium created pursuant to this subchapter shall have the authority to petition the Department of Education or the State Board of Education for waivers from present school standards to fulfill the purposes set forth in § 6-13-1101.

History. Acts 1989, No. 886, §§ 4, 7; 1995, No. 830, § 3.

6-13-1105. [Repealed.]

Publisher's Notes. This section, concerning funds, was repealed by Acts 1995,

No. 830, § 5. The section was derived from Acts 1989, No. 886, § 5.

6-13-1106. Criteria — Contingency.

(a)(1) The State Board of Education shall adopt and publish criteria setting forth the application process to be followed by any educational consortium.

(2) The Department of Education shall determine which applications are accepted in accordance with the state board's published criteria.

(b) Implementation of the provisions of this subchapter shall be contingent upon appropriation.

History. Acts 1989, No. 886, §§ 6, 8; 1995, No. 830, § 4.

SUBCHAPTER 12 — CLARIFICATION OF LAWS CONCERNING CONSOLIDATION, ANNEXATION, AND FORMATION**SECTION.****6-13-1201 — 6-13-1209. [Repealed.]**

Effective Dates. Acts 2001, No. 1037, § 2: Mar. 22, 2001. Emergency clause provided: "It is found and determined by the General Assembly that several school districts have agreed upon boundary changes, and it could cause irreparable harm for students who are displaced by a change in boundaries in the middle of a school year. Therefore, it is necessary to have boundary changes effective prior to the beginning of the school year. Therefore, an emergency is declared to exist and

this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

6-13-1201 — 6-13-1209. [Repealed.]

Publisher's Notes. This subchapter, concerning consolidation, annexation, and formation, was repealed by Acts 2001, No. 1225, § 3. The subchapter was derived from the following sources:

6-13-1201. Acts 1991, No. 966, § 2; 1999, No. 1078, § 41.

6-13-1202. Acts 1991, No. 966, § 3; 1993, No. 294, § 7; 1999, No. 1078, § 42.

6-13-1203. Acts 1991, No. 966, § 4; 1993, No. 294, § 7; 1999, No. 1078, § 43.

6-13-1204. Acts 1991, No. 966, § 5; 1999, No. 1078, § 44.

6-13-1205. Acts 1991, No. 966, § 6.

6-13-1206. Acts 1991, No. 966, § 7; 1999, No. 1078, § 45.

6-13-1207. Acts 1991, No. 966, § 1; 1999, No. 1078, § 46.

6-13-1208. Acts 1993, No. 294, § 7; 1999, No. 1078, § 47.

6-13-1209. Acts 1999, No. 1078, § 48.

For present law, see § 6-13-1401 et seq.

SUBCHAPTER 13 — SITE-BASED DECISION MAKING**SECTION.**

6-13-1301. Legislative intent.

6-13-1302. Definitions.

6-13-1303. Adoption of policy.

6-13-1304. School council established — Members.

6-13-1305. School district policy — Contents.

SECTION.

6-13-1306. School council powers and duties.

6-13-1307. Other authority — Granted by local board.

6-13-1308. Assistance by Department of Education.

6-13-1309. Alternative model.

A.C.R.C. Notes. References to “this chapter” in Subchapters 1-11 may not

apply to this subchapter, which was enacted subsequently.

6-13-1301. Legislative intent.

It is the intention of the General Assembly through this subchapter to:

(1) Stimulate local innovation and creativity in restructuring Arkansas public schools;

(2) Facilitate the empowerment of educators and other persons at the local building site level to identify the needs of their particular students; and

(3) Implement methods of satisfying those needs.

History. Acts 1995, No. 1125, § 1.

6-13-1302. Definitions.

As used in this subchapter:

(1) “Certified employee” means any person for whom certification is required as the basis of employment in the public schools of the state;

(2) “Classified employee” means any person for whom certification is not required as the basis of employment in the public schools of the state;

(3) "Parent" means any parent, legal guardian, or other person having custody or charge of a student enrolled in a public school; and

(4) "Site-based decision making" means a joint planning and problem-solving process implemented within a local school building, providing for a sharing of power, authority, and responsibility among teachers, administrators, and parents, and designed to shift decision making activity to the local building level.

History. Acts 1995, No. 1125, § 2.

6-13-1303. Adoption of policy.

(a) Following a secret ballot vote by two-thirds ($\frac{2}{3}$) of the certified employees in a local building site to implement site-based decision making, the local school district board of directors may adopt a policy for implementing site-based decision making in the school district, to include, but not be limited to, a description of how school district policies have been amended to allow school employees at the local school building site to be involved in the decision-making process as they work to meet educational goals.

(b) For the policy to be implemented, it must be adopted by a majority of the board of directors of the school district.

History. Acts 1995, No. 1125, § 3.

6-13-1304. School council established — Members.

The school district policy adopted by the board of directors and certified faculty of a local school district shall require the following when any local school building site elects to implement site-based decision making under the provisions of this subchapter:

(1)(A)(i) A school council shall be established, composed of teachers, classified employees, and the building principal or administrator.

(ii) A majority of the council shall be made up of teachers.

(B)(i) The teacher representatives on the council shall be elected by a majority of the teachers in a secret ballot election conducted by the teachers in the building.

(ii) The classified employee representatives shall be elected by a majority of the classified employees in a secret ballot election conducted by the classified employees.

(2)(A) The school council may include parent representatives if two-thirds ($\frac{2}{3}$) of the parents present at a meeting called for that purpose vote to participate in site-based decision making.

(B) The parent representatives on the council shall be elected by the parents at a meeting called for that purpose and shall not be relatives of any employee of the school or any board member.

(3) Members of the school council shall elect a chair, vice chair, and secretary.

History. Acts 1995, No. 1125, § 4.

6-13-1305. School district policy — Contents.

The policy adopted by the local school district board of directors to implement site-based decision making shall also address the following:

- (1) Parent, citizen, and community participation, including the relationship of the school council with other groups;
- (2) Cooperation and collaboration within the school district, with other school districts, and with other public and private agencies;
- (3) Professional development plans developed pursuant to the state accreditation standards;
- (4) School improvement plans, including the form and function of strategic planning and its relationship to school district planning;
- (5) School budget and administration, including:
 - (A) Discretionary funds;
 - (B) Activity and other school funds;
 - (C) Funds for maintenance, supplies, and equipment; and
 - (D) Accounting and auditing;
- (6) Assessment of individual student progress, including testing and reporting of student progress to students, parents, the school district, the community, and the state;
- (7) Requirements for waiver of school district policies;
- (8) Requirements for record keeping by the school council; and
- (9) A process for appealing a decision made by a school council.

History. Acts 1995, No. 1125, § 4.

6-13-1306. School council powers and duties.

The school council established under this subchapter may implement policies in the following areas:

- (1) Planning and resolution of issues regarding instructional practices;
- (2) Selection and implementation of discipline and classroom management techniques, including responsibilities of the student, parent, teacher, counselor, and principal;
- (3) Curriculum, including:
 - (A) Needs assessment;
 - (B) Curriculum development;
 - (C) Alignment with state standards;
 - (D) Technology utilization; and
 - (E) Program appraisal;
- (4)(A) Assignment of all instructional and noninstructional staff time; and
(B) Provision for planning time for instructional staff;
- (5) Assignment of students to classes and programs within the school;
- (6) Determination of the schedule of the school day and week, subject to the beginning and ending times of the school day and school calendar year as specified in the personnel policies or negotiated agreements;
- (7) Determination of use of school space during the school; and

(8) Selection of extracurricular programs and determination of policies relating to student participation based on academic qualifications and attendance requirements, program evaluation, and supervision.

History. Acts 1995, No. 1125, § 4.

6-13-1307. Other authority — Granted by local board.

The local board may grant to the school council other authority as authorized by law.

History. Acts 1995, No. 1125, § 4.

6-13-1308. Assistance by Department of Education.

(a) The Department of Education may develop sample guidelines to assist local boards of directors in the development of their policies.

(b) The department may provide professional development activities to assist schools in implementing site-based decision making.

History. Acts 1995, No. 1125, § 5.

6-13-1309. Alternative model.

(a) A local school building site that chooses to have site-based decision making but wishes to be exempt from the administrative structure set forth by this subchapter may develop a model for implementing site-based decision making, including, but not limited to, a description of the membership, organization, duties, and responsibilities of a school council.

(b)(1) The local school building site shall submit the model through the local school district board of directors to the Commissioner of Education and the State Board of Education for approval.

(2) The application for approval of the model shall show evidence that it has been developed by representatives of the parents, students, and employees of the school and that two-thirds (2/3) of the certified employees voting in a secret ballot election have agreed to the model.

History. Acts 1995, No. 1125, § 6.

SUBCHAPTER 14 — CONSOLIDATION, ANNEXATION, AND FORMATION

SECTION.	SECTION.
6-13-1401. Definitions.	may consolidate school districts.
6-13-1402. Consolidation and annexation authority.	6-13-1405. Effective date of annexation or consolidation.
6-13-1403. Conditions under which the State Board of Education may annex school districts.	6-13-1406. Board of directors — Term — Election.
6-13-1404. Conditions under which the State Board of Education	6-13-1407. Creation of a school district — When part of a school district taken.

SECTION.

6-13-1408. Annexation or consolidation not to negatively impact state-assisted desegregation.

6-13-1409. State Board of Education.

6-13-1410. Appeal and election.

6-13-1411. Use of fund balances.

6-13-1412. Board of directors after annexation — Term — Election.

SECTION.

6-13-1413. Board of directors after consolidation — Term — Election.

6-13-1414. Boundary change by State Board of Education.

A.C.R.C. Notes. References to “this subchapter” in §§ 6-13-1401 — 6-13-1410 may not apply to §§ 6-13-1411 — 6-13-1413, which was enacted subsequently.

Cross References. Consolidation, annexation, or merger of districts, § 6-14-122.

Effective Dates. Acts 2003, No. 1467, § 23: July 16, 2003. Effective date clause failed to pass. Effective date clause provided: “Unless otherwise provided in this act, this act shall become effective on July 1, 2003.”

Acts 2003 (2nd Ex. Sess.), No. 60, § 6: Jan. 29, 2004. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that the Arkansas Supreme Court in *Lake View School District No. 25 v. Huckabee*, 351 Ark. 31 (2002) declared the now existing system of education to be unconstitutional because it is both inequitable and inadequate; and the Arkansas Supreme Court set forth the test for a constitutional system to be one in which the State has an ‘absolute duty’ to provide an ‘equal opportunity to an adequate education’; and the Arkansas Supreme Court instructed the General Assembly to define and provide what is necessary to provide an adequate and equitable education for the children of Arkansas. Therefore, an emergency is declared to exist and this act

being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

Acts 2005, No. 274, § 3: Feb. 24, 2005. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that local school boards of directors will be unstable if all members have terms that expire at the same time; that a procedure for members to draw lots will be necessary to avoid the instability; and that this act is immediately necessary because a procedure for drawing lots will need to be in place prior to the 2005 annual school elections. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

6-13-1401. Definitions.

As used in this subchapter:

(1) “Affected district” means a school district that loses territory or students as a result of annexation or consolidation;

(2) "Annexation" means the joining of an affected school district or part thereof with a receiving district;

(3) "Consolidation" means the joining of two (2) or more school districts or parts thereof to create a new single school district;

(4) "Receiving district" means a school district or districts that receive territory or students, or both, from an affected district as a result of annexation;

(5) "Resulting district" means the new school district created from an affected district or districts as a result of consolidation; and

(6) "State board" means the State Board of Education.

History. Acts 2001, No. 1225, § 1.

RESEARCH REFERENCES

U. Ark. Little Rock L. Rev. Survey of assembly, Education Law, 24 U. Ark. Little Rock L. Rev. 453.

6-13-1402. Consolidation and annexation authority.

There shall not be any consolidation or annexation of any public school district with any other school district in the state without the prior consent and approval of the State Board of Education.

History. Acts 2001, No. 1225, § 1.

6-13-1403. Conditions under which the State Board of Education may annex school districts.

(a) The State Board of Education shall consider the annexation of an affected school district or districts to a receiving district or districts under the following conditions:

(1) The state board, after providing thirty (30) days written notice to the affected school districts, determines that annexation is in the best interest of the affected district or districts and the receiving district based upon failure to meet standards for accreditation or failure to meet academic or fiscal distress requirements pursuant to The Quality Education Act of 2003, § 6-15-201 et seq., the Arkansas Comprehensive Testing, Assessment, and Accountability Program Act, § 6-15-401 et seq., and the Arkansas Fiscal Assessment and Accountability Program, § 6-20-1901 et seq.;

(2)(A) The affected district or districts file a petition with the state board requesting annexation to a particular receiving district or districts, and a copy of the petition is filed with the county clerk's office of each county where the affected district or districts are located;

(B) The county clerk's office of each county where the affected district or districts are located certifies in writing that the petition has been signed by a majority of the qualified electors of the affected district or districts; and

(C) The receiving district or districts provide to the state board written proof of consent to receive the affected district or districts by annexation as evidenced by either a vote to approve annexation by resolution by a majority of the members of the local receiving board of education or by a vote to approve annexation by a majority of the qualified electors of the receiving district as provided for in § 6-14-122;

(3)(A) A majority of the qualified electors in the affected district or districts vote to approve the annexation of an affected school district or districts to a receiving district or districts as provided for in § 6-14-122; and

(B) The receiving district or districts provide to the state board written proof of consent to receive the affected district or districts by annexation as evidenced by either a vote to approve annexation by resolution by a majority of the members of the local receiving board of education or by a vote to approve annexation by a majority of the qualified electors of the receiving district as provided in § 6-14-122; or

(4)(A) The local board of education of the affected district or districts votes to approve by resolution the annexation of the affected district or districts to a receiving district or districts by a majority of the members of the local board of education of the affected district or districts; and

(B) The receiving district or districts provide to the state board written proof of consent to receive the affected district or districts by annexation as evidenced by either a vote to approve annexation by resolution by a majority of the members of the local receiving board of education or by a vote to approve annexation by a majority of the qualified electors of the receiving districts as provided for in § 6-14-122.

(b) The state board may vote to approve, by a majority of a quorum present of the members of the state board, the annexation of the affected districts into a receiving district:

(1) The state board, after providing thirty (30) days written notice to the affected districts, may on its own motion based on a school district's failure to meet standards for accreditation or failure to meet academic or fiscal distress requirements pursuant to The Quality Education Act of 2003, § 6-15-201 et seq., the Arkansas Comprehensive Testing, Assessment, and Accountability Program Act, § 6-15-401 et seq., and the Arkansas Fiscal Assessment and Accountability Program, § 6-20-1901 et seq.; or

(2) Upon receipt of a valid petition for annexation and after receiving proof from the petitioning party of at least one (1) of the required conditions set forth in subsection (a) of this section and upon receipt of proof of the issuance of public notice of the intent to annex affected districts into a receiving district or districts in the local newspapers of general circulation in the affected districts for a time period of no less than one time a week for two (2) consecutive weeks immediately prior to the time the petition is filed with the state board.

(c)(1) In order for the petition for annexation to be valid, it shall be filed with the state board at least thirty (30) days prior to the next regularly scheduled state board meeting, at which time the petition will be presented for hearing before the state board.

(2) However, no petition is required for the state board to annex a school district or districts upon a motion of the state board as allowed in subsection (b).

(d)(1) Upon determination by the state board to annex a school district or approval of a petition requesting annexation, the state board shall issue an order dissolving the affected districts and establishing the receiving school district or districts.

(2)(A) The state board shall issue an order establishing the boundary lines of the receiving district or districts.

(B) It shall be the duty of the Department of Education to make changes in the maps of the school districts to properly show the boundary lines of the receiving district or districts.

(e) The state board shall issue an order establishing the changed boundaries and shall file the order with the county clerk or clerks of the county or counties where the receiving district or districts are located. The county clerk shall make a permanent record of the order and, thereafter, the boundaries so established shall be boundaries of the receiving district until changes are made according to the provisions of law.

(f) The state board shall not annex affected districts that are not geographically contiguous unless the following limited conditions are determined to be valid reasons for annexation:

(1) The annexation will result in the overall improvement in the educational benefit to students in all the school districts involved; or

(2) The annexation will provide a significant advantage in transportation costs or service to all the school districts involved.

History. Acts 2001, No. 1225, § 1;
2003, No. 1467, § 19.

RESEARCH REFERENCES

U. Ark. Little Rock L. Rev. Survey of assembly, Education Law, Academic Standards, 26 U. Ark. Little Rock L. Rev. 385.

6-13-1404. Conditions under which the State Board of Education may consolidate school districts.

(a) The State Board of Education shall consider the consolidation of affected districts into a new resulting district or districts under the following conditions:

(1) The state board, after providing thirty (30) days written notice to the affected school districts, determines consolidation is in the best interest of the affected district or districts and the resulting district based upon failure to meet standards for accreditation or academic or fiscal distress requirements pursuant to The Quality Education Act of

2003, § 6-15-201 et seq., the Arkansas Comprehensive Testing, Assessment, and Accountability Program Act, § 6-15-401 et seq., and the Arkansas Fiscal Assessment and Accountability Program, § 6-20-1901 et seq.; or

(2)(A) The affected districts file a petition with the state board requesting that the affected districts be consolidated into a resulting district or districts;

(B) A copy of the petition has been filed with the county clerk's office of each county where the affected districts are located;

(C) The county clerk's office certifies in writing to the state board that the petition has been signed by a majority of the qualified electors of the affected districts;

(D) A majority of the qualified electors in the affected districts votes to approve consolidation of the affected districts into a resulting district or districts pursuant to a valid election as provided in § 6-14-122; and

(E) The local board of directors votes to approve by resolution of a majority of the members of each local board of education the consolidation of the affected districts into a resulting district or districts.

(b) The state board:

(1) After providing thirty (30) days written notice to the affected districts, may consolidate school districts upon its own motion based upon a school district's failure to meet standards for accreditation or academic or fiscal distress requirements pursuant to The Quality Education Act of 2003, § 6-15-201 et seq., the Arkansas Comprehensive Testing, Assessment, and Accountability Program Act, § 6-15-401 et seq., and the Arkansas Fiscal Assessment and Accountability Program, § 6-20-1901 et seq.; or

(2) May vote to approve by a majority of a quorum present of the members of the state board the consolidation of the affected districts into a resulting district upon receipt of a valid petition for consolidation after receiving proof from the petitioning party of at least one (1) of the required conditions set forth in subsection (a) of this section and upon receipt of proof of the issuance of public notice of the intent to consolidate affected districts into a resulting district or districts in the local newspapers of general circulation in the affected districts for a time period of no less than one time a week for two (2) consecutive weeks immediately prior to the time the petition is filed with the state board.

(c)(1) In order for the petition for consolidation to be valid, it shall be filed with the state board at least thirty (30) days prior to the next regularly scheduled state board meeting, at which time the petition will be presented for hearing before the state board.

(2) However, no petition is required for the state board to consolidate a school district or districts on a motion of the state board as allowed in subsection (b).

(d)(1) Upon consolidation of a school district by the state board or approval of a petition requesting consolidation, the state board shall

issue an order dissolving the affected school districts and establishing the resulting school district or districts.

(2)(A) The state board shall issue an order establishing the boundary lines of the resulting district or districts.

(B) It shall be the duty of the Department of Education to make changes in the maps of the school districts to properly show the boundary lines of the resulting district or districts.

(e)(1) The state board shall issue an order establishing the changed boundaries and shall file the order with the county clerk or clerks where the resulting district or districts are located.

(2) The county clerk shall make a permanent record of the order and, thereafter, the boundaries so established shall be boundaries of the resulting district until changes are made according to the provisions of law.

(f) The state board shall not consolidate affected districts that are not geographically contiguous unless the following limited conditions are determined to be valid reasons for consolidation:

(1) The consolidation will result in the overall improvement in the educational benefit to students in all the school districts involved; or

(2) The consolidation will provide a significant advantage in transportation costs or service to all the school districts involved.

History. Acts 2001, No. 1225, § 1;
2003, No. 1467, § 19.

6-13-1405. Effective date of annexation or consolidation.

(a) Upon consolidation or annexation of a school district by the State Board of Education:

(1) The effective date of the annexation or consolidation shall be the July 1 following the state board action unless otherwise determined by the state board;

(2) The state board shall prescribe the number of members of the board of directors of the resulting or receiving district and prescribe the method of forming the board of directors of the resulting or receiving district;

(3) The consolidation or annexation plan adopted by the state board shall be filed with the county clerk of each county that contains territory or a portion of the territory of each affected school district;

(4) All terms and conditions of the consolidation shall be as set forth by the state board and shall be binding on the school districts and the respective boards of directors; and

(5)(A)(i) The state board shall afford the local school districts in a consolidation thirty (30) days to establish an interim local board to govern the resulting district pursuant to § 6-13-1406 until the next school election.

(ii) If the consolidation is under § 6-13-1602, the resulting districts shall establish an interim board by May 31 immediately preceding the effective date of consolidation.

(B) If the local school districts fail to establish an interim board, the state board shall appoint an interim local board to serve until the next elected board assumes office.

(C)(i) The interim board shall be made up of board members from the boards of directors of the affected districts.

(ii) The proportion of board members from each of the affected districts shall be equal to the proportion of the student population in the resulting district that came from each affected district.

(b) Upon a petition for consolidation or annexation:

(1) Consolidation shall be the July 1 following the order of the state board directing the annexation or the consolidation, unless the state board determines otherwise;

(2) Each board of directors of the affected districts by majority approval of the members of the local board of directors may enter into a written agreement executed by the former president and secretary of each district. The agreement shall prescribe the date of the annexation of the affected district or districts to the receiving district or the formation of the resulting district from consolidation of affected districts;

(3) The agreement shall also prescribe the number of members of the board of directors of the resulting district as allowed by law; and

(4) An executed copy of the agreement shall be filed with the county clerk of each county that contains territory or a portion of the territory of each affected district.

History. Acts 2001, No. 1225, § 1; 2003, No. 1467, § 19; 2003 (2nd Ex. Sess.), No. 60, § 2.

A.C.R.C. Notes. Acts 2003 (2nd Ex. Sess.), No. 60, § 1, provided: "Legislative purpose. The General Assembly declares

that this act is necessary to ensure the delivery of an equal opportunity for an adequate education to the people of Arkansas in an efficient and effective manner."

RESEARCH REFERENCES

U. Ark. Little Rock L. Rev. Survey of Legislation, 2003 Arkansas General As-

sembly, Education Law, Academic Standards, 26 U. Ark. Little Rock L. Rev. 385.

6-13-1406. Board of directors — Term — Election.

(a)(1)(A) Unless the board of directors of the affected district or districts and the board of directors of the receiving district or districts agree otherwise, the board of directors of the receiving district or districts after annexation shall be the same board of directors of the receiving district prior to annexation until the next regular school election.

(B)(i) In lieu of electing a new board of directors at the next regular school election, the board of directors of the affected district or districts and the board of directors of the receiving district may agree to form an interim board of directors whose members shall serve until

the regular school election in the year following the effective date of the annexation.

(ii)(a) If an interim board of directors is formed to serve until the school election in the year following the effective date of the annexation, the interim board of directors shall be composed of the members of the board of directors of the receiving district and at least one (1) member selected by the board of directors of each affected district.

(b) Each member selected from the affected district shall be determined by a vote of the affected board of directors. In the case of a tie vote, the member shall be selected by drawing lots.

(2) The boards of directors of the affected districts may by agreement establish a new board of directors other than the current board of directors of the receiving district composed of not fewer than five (5) nor more than seven (7) directors except for those school districts allowed to do otherwise pursuant to § 6-13-604.

(3) The board of directors of the receiving district created by agreement shall be elected from single-member zones of substantially equal population based upon the most recent census information and from which racial minorities may be represented on the board of directors in proportions reflected in the school district as a whole.

(b)(1) Unless the boards of directors of the affected districts agree otherwise, the board of directors of the resulting district after consolidation shall be composed of seven (7) members until the next regular school election.

(2) The boards of directors of the affected districts may by agreement establish a board of directors of the resulting district composed of not fewer than five (5) nor more than seven (7) directors except for those school districts allowed to do otherwise pursuant to § 6-13-604.

(3) The board of directors of the resulting district shall be elected from single-member zones of substantially equal population based upon the most recent census information and from which racial minorities may be represented on the board of directors in proportions reflected in the school district as a whole.

(c) The length of the term of each member of the board of directors after annexation or consolidation shall be for a time period as allowed by law.

(d) At the first meeting of a new board of directors after annexation or consolidation, the members shall determine their terms by lot so that no more than two (2) members' terms expire during any one (1) year.

(e) Any vacancy on the board of directors shall be filled in the manner provided for by law.

(f) The establishment of a board of directors with an even number of members following annexation or consolidation is hereby prohibited.

6-13-1407. Creation of a school district — When part of a school district taken.

(a) Any receiving or resulting district created under this section shall become the successor in interest to the property of the school district dissolved, shall become liable for the contracts and debts of such a school district, and may sue and be sued therefor.

(b) When territory less than the entire school district is annexed or consolidated to a school district, the receiving or resulting district shall take the property of the school district from which the territory was taken, as the State Board of Education shall deem proper, and shall be liable for that part of all indebtedness of the school district from which the territory was taken as shall be assigned to it by the state board unless otherwise approved by a majority vote of the affected school district's or districts' board or boards of directors.

History. Acts 2001, No. 1225, § 1.

6-13-1408. Annexation or consolidation not to negatively impact state-assisted desegregation.

(a) The State Board of Education shall not order any annexation or consolidation under this subchapter or any other act or any combination of acts which hampers, delays, or in any manner negatively affects the desegregation efforts of a school district or districts in this state.

(b) Prior to the entry of any order under this subchapter, the state board shall seek an advisory opinion from the Attorney General concerning the impact of the proposed annexation or consolidation on the effort of the state to assist a school district or districts in desegregation of the public schools of this state.

(c) Any order of annexation or consolidation or combination thereof that violates the provisions of this section shall be null and void.

History. Acts 2001, No. 1225, § 1.

6-13-1409. State Board of Education.

(a) The State Board of Education shall have the following duties regarding consolidations and annexations:

(1) To form local school districts, change boundary lines of school districts, dissolve school districts and annex the territory of those school districts to another school district, create new school districts, and perform all other functions regarding changes in school districts in accordance with the law;

(2) To transfer funds and attach territory that is in no school district to other school districts as may seem best for the educational welfare of the children; and

(3) To enact rules and regulations regarding the consolidation and annexation of school districts under this title.

(b) The millage rate of the electors of the affected district shall remain the same until an election may be held to change the rate of taxation for the resulting district or receiving district.

History. Acts 2001, No. 1225, § 1; 2003, No. 1467, § 20.

6-13-1410. Appeal and election.

The decision of the State Board of Education regarding a consolidation or annexation shall be final with no further right of appeal except that an aggrieved school district may appeal to Pulaski County Circuit Court pursuant to the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

History. Acts 2003, No. 1467, § 21.

6-13-1411. Use of fund balances.

(a) Unless otherwise approved by a unanimous vote of the board of directors of the resulting district, the fund balances of any school district that is consolidated, annexed, or otherwise reorganized shall be used by the resulting district solely for the construction of facilities or the operation, maintenance, or support of the schools that were located in the affected school district from which the fund balance was derived if any of the facilities of the affected district from which the fund balance was derived remain open.

(b) The provisions of this section shall not apply if the consolidation or annexation is because of the school district's failure to meet standards for accreditation or failure to meet academic or fiscal distress requirements pursuant to The Quality Education Act of 2003, § 6-15-201 et seq., the Arkansas Comprehensive Testing, Assessment, and Accountability Program Act, § 6-15-401 et seq., or the Arkansas Fiscal Assessment and Accountability Program, § 6-20-1901 et seq.

History. Acts 2003 (2nd Ex. Sess.), No. 71, § 1. 6-13-1412 and 6-13-1413 may not apply to this section, which was enacted subsequently.

A.C.R.C. Notes. References to "this subchapter" in §§ 6-13-1401 — 6-13-1410,

6-13-1412. Board of directors after annexation — Term — Election.

(a)(1) Notwithstanding any other provisions of law, school districts that annex after January 1, 2005, under Acts 2003 (2nd Ex. Sess.), No. 60, and opt to follow the procedures in this section or school districts that voluntarily annex and opt to follow the procedures in this section shall form a new board of directors made up of the board of directors of the receiving district plus at least one (1) member of the board of directors of each affected district as provided under § 6-13-1406(a)(1)(B)(ii).

(2) The board of directors of each affected district shall select by majority vote at least one (1) member to serve on the new board of directors.

(3) In the case of a tie vote on the board of directors of an affected district, the member shall be selected by drawing lots.

(b)(1) School districts that annexed before January 1, 2005, under Acts 2003 (2nd Ex. Sess.), No. 60, and which have an interim board of directors that has not stood for election since the creation of the interim board of directors shall have a board of directors made up of the members of the interim board of directors.

(2) Within thirty (30) days of February 24, 2005, the members of the board of directors shall determine their terms by lot so that no more than three (3) members' terms expire during any one (1) year with no fewer than one (1) member's term expiring at the regular school election in the year following the effective date of the annexation.

(c)(1) In no case shall the interim board of directors or permanent board of directors have:

(A) More than seven (7) or fewer than five (5) members; or

(B) An even number of members.

(2) If the addition of members from the affected district or districts would cause the interim board of directors to be out of compliance with subdivision (c)(1) of this section or if the board of directors decides to reduce the size of the board of directors, the total number of positions held by the members of the receiving district shall be reduced as necessary by:

(A) Voluntary resignation of one (1) or more existing members; or

(B) Drawing lots by the directors of the receiving district prior to annexation.

(d) In lieu of electing a new board of directors at the next regular school election, the members of the interim board of directors created under subsection (a) of this section shall determine their terms by lot so that no more than three (3) members' terms expire during any one (1) year with no fewer than one (1) member's term expiring at the regular school election in the year following the effective date of the annexation.

(e)(1) Unless the school district is allowed to do otherwise pursuant to § 6-13-604, the board of directors of the receiving district after annexation shall be composed of five (5) or seven (7) members as determined by a majority vote of the board of directors of the receiving district, and the determination shall be exempt from the requirements of §§ 6-13-604 and 6-13-606.

(2)(A) The board of directors shall be elected from single-member zones if single-member election zones are necessary to comply with the Voting Rights Act of 1965, as in existence on January 1, 2005, ensuring the protection of the voting rights of minority populations in school districts. Otherwise, the election may be at large for the board of director members whose terms are expiring.

(B)(i) If the board of directors of a school district is required to be elected from single-member zones, the procedure for the election

shall be as necessary to comply with the Voting Rights Act of 1965, as in existence on January 1, 2005, and state law.

(ii) The zoning shall be completed no later than one hundred twenty (120) calendar days prior to the second school election following the effective date of the annexation, at which time the full board of directors shall be up for election.

(C) No sanctions provided by state statutory law, specifically including, but not limited to, the sanctions under § 6-13-631(h)(2) or State Board of Education rule shall be levied against a school district if the deadline for zoning allowed under subdivision (e)(2)(B) of this section is met.

(3)(A)(i) If prior to the annexation either the receiving district or the affected district had been zoned as necessary to comply with the Voting Rights Act of 1965, as in existence on January 1, 2005, or state law, the receiving district shall review the makeup and boundaries of the zones and the latest decennial census data of the receiving district.

(ii) After the review required under subdivision (e)(3)(A)(i) of this section, the receiving district shall be rezoned as necessary to comply with the Voting Rights Act of 1965, as in existence on January 1, 2005, and state law.

(B) Any rezoning under subdivision (e)(3)(A)(ii) of this section shall be completed no later than one hundred twenty (120) calendar days prior to the second school election following the effective date of the annexation.

(C) No sanctions provided by state statutory law, specifically including, but not limited to, the sanction under § 6-13-631(h)(2) or State Board of Education rule, shall be levied against a school district if the deadline for rezoning allowed under subdivision (e)(3)(B) of this section is met.

(f) The length of the term of each member of the board of directors after annexation shall be for a time period as determined by the board of directors and allowed by law.

(g) Any vacancy on the board of directors shall be filled in the manner provided for by law.

(h)(1) The provisions of §§ 6-13-1405 and 6-13-1406 with respect to the election of a board of directors following annexation shall not be applicable for school districts annexed under Acts 2003 (2nd Ex. Sess.), No. 60, that follow the procedures in this section or school districts that voluntarily annex and opt to follow the procedures in this section.

(2) However, the State Board of Education shall allow school districts thirty (30) days to establish an interim local board of directors or as incorporated in this section by reference.

History. Acts 2005, No. 274, § 1.

A.C.R.C. Notes. Acts 2003 (2nd Ex. Sess.), No. 60, is codified as §§ 6-13-1405, 6-13-1601 — 6-13-1605 and 6-20-602.

U.S. Code. The Voting Rights Act of 1965, referred to in this section, is codified as 42 U.S.C. §§ 1971, 1973 et seq.

6-13-1413. Board of directors after consolidation — Term — Election.

(a) Notwithstanding any other provision of law, school districts that consolidate after January 1, 2005, under Acts 2003 (2nd Ex. Sess.), No. 60, and that opt to follow the procedures in this section or school districts that voluntarily consolidate and opt to follow the procedures in this section shall form an interim board of directors as provided by §§ 6-13-1405(a)(5) and 6-13-1406(b).

(b) In lieu of electing a new board of directors at the next regular school election, the members of the interim board of directors created under subsection (a) of this section shall determine their terms by drawing lots so that no more than three (3) members' terms expire during any one (1) year with no fewer than one (1) member's term expiring at the regular school election in the year following the effective date of the consolidation.

(c)(1) Unless the school district is allowed to do otherwise pursuant to § 6-13-604, the board of directors of the school district after consolidation shall be composed of five (5) or seven (7) members as determined by a majority vote of the board of directors of the resulting district, and the determination shall be exempt from the requirements of §§ 6-13-604 and 6-13-606.

(2)(A) The board of directors shall be elected from single-member zones if single-member election zones are necessary to comply with the federal Voting Rights Act of 1965, as in effect on January 1, 2005, to ensure the protection of the voting rights of minority populations in school districts. Otherwise, the election may be at large for members of the board of directors whose terms are expiring.

(B)(i) If the board of directors of a school district is to be elected from single-member zones, the school district shall be zoned as necessary to comply with the federal Voting Rights Act of 1965, as in effect on January 1, 2005, and state law.

(ii) The zoning shall be completed no later than one hundred twenty (120) calendar days prior to the second school election following the effective date of the consolidation, at which time the full board of directors shall be up for election.

(C) No sanctions provided by state statutory law, specifically including, but not limited to, the sanctions under § 6-13-631(h)(2) or State Board of Education rule, shall be levied against a school district if the deadline for zoning allowed under subdivision (c)(2)(B) of this section is met.

(3)(A)(i) If prior to the consolidation either of the affected districts had been zoned in compliance with the federal Voting Rights Act of 1965, as in effect on January 1, 2005, or state law, the resulting district shall review the makeup and boundaries of the zones and the latest federal decennial census data of the receiving district.

(ii) After the review required under subdivision (c)(3)(A)(i) of this section, the resulting district shall be rezoned as necessary to comply

with the federal Voting Rights Act of 1965, as in effect on January 1, 2005, and state law.

(B) Any rezoning under subdivision (c)(3)(A)(ii) of this section shall be completed no later than one hundred twenty (120) calendar days prior to the second school election following the effective date of the consolidation.

(C) No sanctions under state statutory law, specifically including, but not limited to, the sanctions under § 6-13-631(h)(2) or State Board of Education rule, shall be levied against a school district if the deadline for rezoning allowed under subdivision (c)(3)(B) of this section is met.

(d) The length of the term of each member of the board of directors after consolidation shall be for a time period as determined by the board of directors and allowed by law.

(e) Any vacancy on the board of directors shall be filled in the manner provided for by law.

(f) The provisions of §§ 6-13-1405 and 6-13-1406 with respect to the election of a board of directors following consolidation shall not be applicable for school districts consolidating under Acts 2003 (2nd Ex. Sess.), No. 60, that follow the procedures in this section or school districts that voluntarily consolidate and opt to follow the procedures in this section. However, the State Board of Education shall allow school districts thirty (30) days to establish an interim local board of directors. If the affected districts fail to establish an interim board of directors as required, the State Board of Education shall appoint an interim local board of directors pursuant to § 6-13-1405 or as incorporated in this section by reference.

(g)(1) Notwithstanding any other provisions of law, school districts that consolidated before January 1, 2005, under Acts 2003 (2nd Ex. Sess.), No. 60, may by majority vote of the board of directors opt to return to at-large elections if the school district:

(A) Was required to establish single-member election zones solely because of the requirements of Acts 2003 (2nd Ex. Sess.), No. 60;

(B) Is not or was not required to establish single-member election zones by any state law other than Acts 2003 (2nd Ex. Sess.), No. 60; and

(C) Is not or was not required to have single-member election zones to comply with the federal Voting Rights Act of 1965, as in effect on January 1, 2005.

(2) Any school district opting to return to at-large elections as allowed under this section shall return to an at-large election over a period of time as each individual member's position comes up for election based on the staggered term of office for each board position as established by the local board of directors.

History. Acts 2005, No. 274, § 2.

Sess.), No. 60, is codified as §§ 6-13-1405,

A.C.R.C. Notes. Acts 2003 (2nd Ex.

6-13-1601 — 6-13-1605 and 6-20-602.

U.S. Code. The Voting Rights Act of 1965, referred to in this section, is codified as 42 U.S.C. §§ 1971, 1973 et seq.

6-13-1414. Boundary change by State Board of Education.

(a)(1) The State Board of Education shall consider a petition from a local board of directors of any school district seeking an adjustment or change of boundary lines between its school district and an adjoining school district.

(2) The local board of directors must file the petition with the state board at least thirty (30) days prior to the next regularly scheduled state board meeting, at which time the petition will be presented for hearing before the state board.

(b) Upon proof to the state board of public notice issued in the local newspapers of general circulation in each affected school district no less than one time a week for two (2) consecutive weeks, the state board may, by approval of a majority of the members of a quorum present of the state board, issue an order changing or adjusting the boundary lines between the adjoining school districts.

(c) If the local board of directors of each of the affected school districts is unable to agree on the proposed change in boundary lines, the state board shall adjust and change the boundary lines in accordance with its best judgment subject to the requirement of subsection (f) of this section or shall rule that the boundaries remain unchanged.

(d) Upon an order from the state board to change or adjust boundary lines, it shall be the duty of the Department of Education to immediately make changes in the maps of the school districts of the county to show the changes of boundaries.

(e) The state board shall issue an order establishing the changed boundaries and shall file the order with the county clerk in each county in which every affected school district lies. The county clerk shall make a permanent record of the order, and thereafter the boundaries so established shall be the boundaries of the affected school districts until changes are made according to the provisions of law.

(f) The state board shall not order any change in school district boundaries which hampers, delays, or in any manner negatively affects the desegregation efforts of the public school districts in the State of Arkansas.

History. Acts 2001, No. 1037, § 1.

A.C.R.C. Notes. This section was originally codified at § 6-13-1210.

Publisher's Notes. Acts 2001, No. 1225, § 3 provided that Title 6, Chapter 13, Subchapter 12 is repealed, but this

section, enacted by Acts 2001, No. 1037, was not included in the engrossing on Acts 2001, No. 1225. For resolution of conflicting legislation, see §§ 1-2-207 and 1-2-303.

RESEARCH REFERENCES

U. Ark. Little Rock L. Rev. Survey of Legislation, 2001 Arkansas General Assembly, Education Law, 24 U. Ark. Little Rock L. Rev. 453.

SUBCHAPTER 15 — CREATION OF SCHOOL DISTRICT BY DETACHING TERRITORY FROM EXISTING SCHOOL DISTRICT

SECTION.
6-13-1501. Creation of school district by detaching territory from existing school district.
6-13-1502. Minimum area and attendance requirements.

SECTION.
6-13-1503. Initiation of detachment.
6-13-1504. Petition — Election.
6-13-1505. Creation of school district.

Effective Dates. Acts 2003, No. 1397, § 2: Apr. 15, 2003. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that the Arkansas Constitution requires the State of Arkansas to provide a general, suitable, and efficient system of public education; that procedures to ensure a general, suitable, and efficient system of public education need to be in place prior to the beginning the 2003-2004 school year; and that this act is immediately necessary to allow school districts and the electors of those districts sufficient time to organize and plan to for a

general, suitable, and efficient system of education in the district prior to the beginning of the 2003-2004 school year. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

6-13-1501. Creation of school district by detaching territory from existing school district.

(a)(1) It is the intent of the General Assembly, by this subchapter, to provide opportunities for children of this state by allowing local community members the opportunity to establish and maintain public schools in a manner that optimizes educational resources within a community.

(2) The General Assembly finds that the educational needs of the students of this state shall be best served by not allowing creation of a school district under this subchapter with fewer than four thousand (4,000) students, thus ensuring adequate educational opportunities for students.

- (b) A new school district may be created by detaching territory from:
 - (1) An existing school district; or
 - (2) Two (2) or more existing contiguous school districts.
- (c) A school district created under this subchapter shall have all the rights, privileges, and responsibilities of other public school districts.

History. Acts 2001, No. 1673, § 1.

RESEARCH REFERENCES

U. Ark. Little Rock L. Rev. Survey of assembly, Education Law, 24 U. Ark. Little Legislation, 2001 Arkansas General As- Rock L. Rev. 453.

6-13-1502. Minimum area and attendance requirements.

(a) A new school district may not be created in an area with fewer than four thousand (4,000) students in average daily membership.

(b) An existing school district shall not be reduced by means of detachment to an area with fewer than four thousand (4,000) students in average daily membership.

(c) A new school district to be created by detachment must only be made up of students from one (1) existing school district.

(d) This subchapter shall apply only to school districts that:

(1) Had an average daily membership of at least fifteen thousand (15,000) students but not more than twenty thousand (20,000) students in the school year immediately preceding the detachment; or

(2) Encompass a total area of seven hundred square miles (700 sq. mi.) or more, now or in the future.

History. Acts 2001, No. 1673, § 1;
2003, No. 1397, § 1.

6-13-1503. Initiation of detachment.

Creation of a new school district by detachment shall be initiated by:

(1) Resolution of the board of directors of each school district from which territory is to be detached; or

(2) A petition that is presented to the State Board of Education pursuant to the provisions of this subchapter.

History. Acts 2001, No. 1673, § 1.

6-13-1504. Petition — Election.

(a)(1) Not later than the thirtieth day after the date the State Board of Education receives a petition or resolution under this subchapter, the state board shall hold a hearing on the validity of the petition or resolution.

(2) To be valid, a petition or resolution shall:

(A) State the purpose for which the petition or resolution is being submitted;

(B) Contain a plat or map of the proposed new school district;

(C) Contain an independent feasibility study stating:

(i) Cost of operation of the new school district and the ability to operate the new school district taking into consideration the tax base, debt service, and division of assets to the new school district;

- (ii) A list of the public school assets to be transferred from the existing school district to the new school district;
- (iii) The size of the new school district; and
- (iv) The effect of detachment on court-ordered desegregation; and
- (D) Be signed by at least ten percent (10%) of the registered voters of the area proposed for detachment.

(b)(1) If the state board determines that the petition or resolution is valid and the petition or resolution does not conflict with subdivision (b)(2) of this section, the state board may, after complying with subdivision (b)(2) of this section, order an election on the proposition of detachment to be held at the next annual school election or general election.

(2)(A) The state board shall not order any creation of a new school district by detachment under this subchapter or any other act or combination of any acts that hampers, delays, or in any manner negatively affects desegregation efforts of a school district or districts in this state.

(B) Prior to the entry of any order for election on the question of detachment, the state board shall seek an advisory opinion from the Attorney General concerning the impact of the proposed detachment and creation of a new school district on the effort of the state to assist the affected school district or districts in the desegregation of the public schools of this state.

(3) The order for election on the proposition of detachment shall:

(A) Contain a plat or map of the proposed new school district; and

(B) Comply with all requirements and procedures set forth in § 6-14-101 et seq. that do not conflict with the provisions of this subchapter.

(c)(1)(A) The state board shall certify two (2) copies of the detachment order and convey one (1) copy to the county clerk and one (1) copy to the county election commission at least sixty (60) days prior to the date the commission sets for election on the question of detachment.

(B)(i) No later than forty-five (45) days prior to the election, the county clerk of each county affected shall identify all persons who reside within the area proposed to be detached, and the county clerk shall determine the names and addresses of all qualified electors residing within that area.

(ii) The failure to identify all persons residing within the area proposed to be detached or the failure to determine the names and addresses of all qualified electors residing within that area shall not invalidate or otherwise affect the results of the election.

(C) All of the qualified electors residing within the territory to be detached shall be entitled to vote in the election.

(D) The petitioners shall give notice of the election by publication of at least one (1) insertion in a newspaper having general circulation in each school district from which territory is being detached.

(2)(A) The county clerk shall prepare a list by precinct of all those qualified electors residing within the area to be detached who are

qualified to vote in that precinct and furnish that list to the election officials at the time the ballot boxes and voting machines are delivered.

(B) If the county clerk or the county election commission shall fail to perform any duties required, then any interested party may apply for a writ of mandamus to require the performance of the duties.

(C) The failure of the county clerk or the county election commission to perform the duties shall not void the detachment election unless a court finds that the failure to perform the duties substantially prejudiced an interested party.

(d)(1) The ballot shall be printed to permit voting for or against the proposition in a manner similar to the following: "Creation of a new school district by detachment of property and territory that includes the following property and territory from the _____ School District: _____."

(2) The ballot description of the property and territory to be detached shall be sufficient to give general notice of the territory affected.

History. Acts 2001, No. 1673, § 1.

6-13-1505. Creation of school district.

(a) If all the requirements of this subchapter are met and a majority of the votes are cast for the proposition, the State Board of Education shall order the creation of the new school district.

(b)(1) At the time the order creating the district is made, the state board shall appoint a board of directors of seven (7) members for the new school district to serve until the next regular election of members, when a board of directors shall be elected in compliance with Arkansas law.

(2) Following the entry of the order creating the new school district and the appointment of a board of directors for the new school district but prior to the transfer of any assets, territory, property, liabilities, duties, or responsibilities, any new school district created by detachment from an existing school district that is a party to any court-ordered desegregation plan shall petition the court having jurisdiction in the desegregation matter and obtain any and all court orders or other relief necessary to ensure that the detachment will not cause the state or any affected school district to be in violation of any orders of the court or any consent orders or decrees entered into by the parties with regard to the desegregation plan.

(c) Any new school district created under this subchapter shall take the property of the school district from which the territory was taken, as the state board shall deem proper, and shall be liable for that part of all indebtedness of the school district from which the territory was taken as shall be assigned to the new school district by the state board.

(d) The millage rate of the electors of the detached territory shall remain the same until an election may be held to change the rate of taxation for the detached area.

(e) The state board shall have the following duties regarding creation of a school district by detachment:

(1) To form local school districts, change boundary lines of school districts, create new school districts, and perform all other functions regarding changes in school districts in accordance with the law;

(2) To transfer funds and attach territory that is in one (1) school district to other school districts as may seem best for the educational welfare of the children; and

(3) To enact rules and regulations regarding the creation of school districts by detachment under this subchapter.

History. Acts 2001, No. 1673, § 1.

SUBCHAPTER 16 — PUBLIC EDUCATION REORGANIZATION ACT

SECTION.

6-13-1601. Definitions.

6-13-1602. Administrative consolidation list.

6-13-1603. Administrative reorganization.

6-13-1604. [Repealed.]

6-13-1605. [Repealed.]

6-13-1606. Development of plan to track student progress.

6-13-1607. Retention of historical records and documents.

SECTION.

6-13-1608. Audit required.

6-13-1609. Preservation of historical school artifacts.

6-13-1610. Financial relief for debts acquired as a result of involuntary consolidations.

6-13-1611. Reports.

6-13-1612. Academic support centers.

A.C.R.C. Notes. Acts 2003 (2nd Ex. Sess.), No. 60, § 1, provided: "Legislative purpose. The General Assembly declares that this act is necessary to ensure the delivery of an equal opportunity for an adequate education to the people of Arkansas in an efficient and effective manner."

References to "this subchapter" in §§ 6-13-1601 — 6-13-1605, 6-13-1608, 6-13-1610 and 6-13-1611 may not apply to §§ 6-13-1606, 6-13-1607, and 6-13-1609, which were enacted subsequently.

Effective Dates. Acts 2003 (2nd Ex. Sess.), No. 60, § 6: Jan. 29, 2004. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the Arkansas Supreme Court in *Lake View School District No. 25 v. Huckabee*, 351 Ark. 31 (2002) declared the now existing system of education to be unconstitutional because it is both inequitable and inadequate; and the Arkansas Supreme Court set forth the test for a constitutional system to be one

in which the State has an 'absolute duty' to provide an 'equal opportunity to an adequate education'; and the Arkansas Supreme Court instructed the General Assembly to define and provide what is necessary to provide an adequate and equitable education for the children of Arkansas. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2005, No. 1236, § 2: Mar. 24, 2005. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the provisions of this act are of critical importance to preserve the efficient operations of the

schools of the State of Arkansas; that this act provides needed information regarding consolidations; and that this is immediately necessary for the efficient operations of schools. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

Acts 2005, No. 2230, § 2: Apr. 13, 2005. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that some school districts that were required to consolidate under Act 60 of the Second Extraordinary

Session of the Eighty-Fourth General Assembly were forced to incur unfair financial burdens created by other districts; that to provide the necessary resources to their students the districts need additional funding to cover those debts; and that this act is immediately necessary because school districts must incur much of the financial burden prior to the end of the fiscal year. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

6-13-1601. Definitions.

As used in this subchapter:

(1) “Administrative annexation” means the joining of an affected school district or a part of the school district with a receiving district;

(2) “Administrative consolidation” means the joining of two (2) or more school districts to create a new single school district with one (1) administrative unit and one (1) board of directors that is not required to close school facilities;

(3) “Affected district” means a school district that loses territory or students as a result of administrative annexation or administrative consolidation;

(4)(A) “Average daily membership” means the total number of days attended plus the total number of days absent by students in grades kindergarten through twelve (K-12) during the first three (3) quarters of each school year divided by the number of school days actually taught in the school district during that period of time rounded up to the nearest hundredth.

(B) Students who may be counted for average daily membership are:

(i) Students who reside within the boundaries of the school district and who are enrolled in a public school operated by the school district or a private school for special education students, with their attendance resulting from a written tuition agreement approved by the Department of Education;

(ii) Legally transferred students living outside the school district but attending a public school in the school district; and

(iii) Students who reside within the boundaries of the school district and who are enrolled in the Arkansas National Guard Youth Challenge Program, so long as the students are participants in the program;

(5) "Receiving district" means a school district or districts that receive territory or students, or both, from an affected district as a result of administrative annexation; and

(6) "Resulting district" means the new school district created from an affected district or districts as a result of administrative consolidation.

History. Acts 2003 (2nd Ex. Sess.), No. 60, § 3; 2005, No. 2151, § 21. deleted former (5)-(7) and redesignated the remaining subdivisions accordingly.

Amendments. The 2005 amendment

6-13-1602. Administrative consolidation list.

By February 1, 2004, and each January 1 thereafter, the Department of Education shall publish a consolidation list that includes all school districts with fewer than three hundred fifty (350) students according to the school district average daily membership in each of the two (2) school years immediately preceding the current school year.

History. Acts 2003 (2nd Ex. Sess.), No. 60, § 3; 2005, No. 2151, § 22. **Amendments.** The 2005 amendment substituted "January 1" for "February 1."

6-13-1603. Administrative reorganization.

(a)(1) Any school district included in the Department of Education's consolidation list under § 6-13-1602 may voluntarily agree to administratively consolidate with or be annexed to another school district or districts in accordance with the requirements and limitations of this section.

(2)(A) Any school district on the consolidation list choosing to voluntarily administratively consolidate or annex shall submit a petition for approval to the State Board of Education by March 1 immediately following publication of the list and shall set forth the terms of the administrative consolidation or annexation agreement in the petition.

(B) If the petition is approved by the state board, the administrative consolidation or annexation shall be completed by May 1, to be effective July 1 immediately following the publication of the list required under § 6-13-1602.

(3) Any school district on the consolidation list that does not submit a petition under subdivision (a)(2)(A) of this section or that does not receive approval by the state board for a voluntary consolidation or annexation petition shall be administratively consolidated by the state board with or into one (1) or more school districts by May 1, to be effective July 1 immediately following the publication of the list required under § 6-13-1602.

(4) The state board shall promptly consider petitions or move on its own motion to administratively consolidate a school district on the

consolidation list in order to enable the affected school districts to reasonably accomplish any resulting administrative consolidation or annexation by July 1 immediately following the publication of the list required under § 6-13-1602.

(5) The state board shall not deny the petition for voluntary administrative consolidation or annexation of any two (2) or more school districts unless:

(A) The provisions contained in the articles of administrative consolidation or annexation would violate state or federal law; or

(B) The voluntary consolidation or annexation would not contribute to the betterment of the education of students in the school district.

(b) Any school district required to be administratively consolidated under this subchapter shall be administratively consolidated in such a manner as to create a resulting district with an average daily membership meeting or exceeding three hundred fifty (350).

(c) All administrative consolidations or annexations under this section shall be accomplished so as not to create a school district that hampers, delays, or in any manner negatively affects the desegregation of another school district in this state.

(d) In the administratively consolidated or annexed school districts created under this subchapter, the ad valorem tax rate shall be determined as set forth under § 6-13-1409.

(e) Nothing in this section shall be construed to require the closing of any school or school facility.

(f) No administratively consolidated or annexed school district shall have more than one (1) superintendent.

(g) Any school district not designated as being in academic or fiscal distress for the current school year and previous two (2) school years that administratively receives by consolidation or annexation a school district designated by the state board as being in academic or fiscal distress at the time of consolidation or annexation shall not be subject to academic or fiscal distress sanctions for a period of three (3) years from the effective date of consolidation unless:

(1) The school district fails to meet minimum teacher salary requirements; or

(2) The school district fails to comply with the Standards for Accreditation of Arkansas Public Schools and School Districts issued by the department.

(h) Noncontiguous school districts may voluntarily consolidate if the facilities and physical plant of each school district:

(1) Are within the same county, and the state board approves the administrative consolidation; or

(2) Are not within the same county, and the state board approves the administrative consolidation or administrative annexation and finds that:

(A) The administrative consolidation or administrative annexation will result in the overall improvement in the educational benefit to students in all of the school districts involved; or

(B) The administrative consolidation or administrative annexation will provide a significant advantage in transportation costs or service to all of the school districts involved.

(i) Contiguous school districts may administratively consolidate even if they are not in the same county.

(j) The state board shall promulgate rules to facilitate the administration of this subchapter.

(k) The provisions of § 6-13-1406 shall govern the board of directors of each resulting or receiving school district created under this subchapter.

History. Acts 2003 (2nd Ex. Sess.), No. 60, § 3; 2005, No. 1397, § 1; 2005, No. 1962, § 9; 2005, No. 2151, § 23.

Amendments. The 2005 amendment by No. 1397 deleted former (f) and redesignated the remaining subsections accordingly.

The 2005 amendment by No. 1962 substituted “petition” for “plan” at the end of (a)(2)(A).

The 2005 amendment by No. 2151 deleted former (f) and redesignated the re-

maining subsections accordingly; substituted “under” for “pursuant to” in (a)(1) and (a)(3); substituted “March 1” for “April 1” in (a)(2)(A); substituted “May 1” for “June 1” in (a)(2)(B) and (a)(3); and, in present (g), substituted “Any school district... by consolidation or annexation” for “No school district administratively consolidated with” and substituted “at the time of consolidation or annexation shall not” for “shall.”

6-13-1604. [Repealed.]

Publisher’s Notes. This section, concerning administrative consolidation assistance funds, was repealed by Acts 2005,

No. 2151, §§ 24, 25. The section was derived from Acts 2003 (2nd Ex. Sess.), No. 60, § 3; 2003 (2nd Ex. Sess.), No. 80, § 1.

6-13-1605. [Repealed.]

Publisher’s Notes. This section, concerning charter schools, was repealed by Acts 2005, No. 2151, § 26. The section

was derived from Acts 2003 (2nd Ex. Sess.), No. 60, § 3.

6-13-1606. Development of plan to track student progress.

(a) Following the administrative consolidation or administrative annexation under §§ 6-13-1601 — 6-13-1603, 6-13-1604 [repealed], and 6-13-1605 [repealed] effective prior to December 1, 2004, and prior to any consolidation, annexation, detachment, approval of a conversion charter, or any other type of reclassification or reorganization of a school district after December 1, 2004, each receiving or resulting school district and the Department of Education shall develop a plan to track the educational progress of all students from the affected district and the following subgroups of those students:

(1) Students who have been placed at risk of academic failure as required under § 6-15-1602;

(2) Economically disadvantaged students;

(3) Students from major racial and ethnic groups; and

(4) Specific population groups as identified by the State Board of Education, the department, or the affected or receiving district as target groups for closing the achievement gaps.

(b) The receiving or resulting district shall obtain and retain all student records from the affected district for the five (5) years immediately preceding the administrative consolidation or administrative annexation, specifically including, but not limited to:

- (1) Individual student records;
- (2) Attendance records;
- (3) Enrollment records;

(4) Assessment records for assessments required under the Arkansas Comprehensive Testing, Assessment, and Accountability Program Act, § 6-15-401 et seq., specifically including benchmark assessments and end-of-course assessments; and

(5) American College Test and Standardized Aptitude Test results and records.

(c) The school district shall report to the department information determined by the department as necessary to track the educational progress of all students from the affected district as a subgroup and the following subgroups of those transferred students:

(1) Students who have been placed at risk of academic failure as required under § 6-15-1602;

(2) Economically disadvantaged students; and

(3) Students from major racial and ethnic groups.

(d) By November 1, 2005, and by November 1 each year thereafter, the department shall file a written report with the Governor, the chair of the House Interim Committee on Education, the chair of the Senate Interim Committee on Education, and the secretary of the Legislative Council assessing the educational progress of all students from the affected district as a subgroup and the following subgroups of those transferred students:

(1) Students who have been placed at risk of academic failure as required under § 6-15-1602;

(2) Economically disadvantaged students; and

(3) Students from major racial and ethnic groups.

History. Acts 2005, No. 1198, § 1.

A.C.R.C. Notes. References to "this subchapter" in §§ 6-13-1601 — 6-13-1605,

6-13-1608, 6-13-1610 and 6-13-1611 may not apply to this section, which was enacted subsequently.

RESEARCH REFERENCES

U. Ark. Little Rock L. Rev. Survey of Legislation, 2005 Arkansas General As-

sembly, Education Law, 28 U. Ark. Little Rock L. Rev. 347.

6-13-1607. Retention of historical records and documents.

Following the annexations or consolidations under § 6-13-1601 et seq. effective prior to December 1, 2004, and prior to any consolidation, annexation, detachment, approval of a conversion charter, or any other

type of reclassification or reorganization of a school district after December 31, 2004, a receiving or resulting school district shall obtain and retain all student and historical records and documents from the affected school district, specifically including, but not limited to:

- (1) Student transcripts;
- (2) Graduation records;
- (3) Minutes and other legal documents of the local board of directors;
- (4) Maps or boundary documents;
- (5) Sports records, trophies, and awards;
- (6) Employee records; and
- (7) Financial records.

History. Acts 2005, No. 2146, § 1.

A.C.R.C. Notes. References to “this subchapter” in §§ 6-13-1601 — 6-13-1605,

6-13-1608, 6-13-1610 and 6-13-1611 may not apply to this section, which was enacted subsequently.

6-13-1608. Audit required.

(a) The Division of Legislative Audit shall conduct a comprehensive financial review of all the school district’s financial matters for any school that is involved in administrative consolidation or administrative annexation or is otherwise reorganized by the State Board of Education.

(b) The comprehensive financial review shall begin no less than ten (10) days after the earliest of:

(1) The publication of the district’s name on the consolidation and annexation list under § 6-13-1602;

(2) The filing of a petition for voluntary administrative consolidation or administrative annexation; or

(3) The adoption of a motion by the state board to consolidate, annex, or otherwise reorganize a school district designated as being in academic or fiscal distress.

(c)(1) Beginning on the date of publication of the consolidation list under § 6-13-1602 each year, the Department of Education shall have authority to oversee all fiscal and accounting-related matters of all school districts on the consolidation list and shall require those school districts to have accurate records necessary to close all books within sixty (60) days after the end of the fiscal year.

(2) No contract or other debt obligation incurred by a school district for which the department has oversight authority under this section shall be valid or enforceable against a resulting school district unless the contract or other debt obligation is preapproved in writing by the Commissioner of Education or his or her designee.

(d) Any school that is involved in an administrative consolidation or administrative annexation shall have an audit started within thirty (30) days of the completion of the closing of the books by the school district.

(e) The department and the division shall jointly develop the scope and details of the comprehensive fiscal review consistent with the requirements of this section.

History. Acts 2005, No. 1236, § 1.

6-13-1609. Preservation of historical school artifacts.

Following the administrative consolidations or administrative annexations under §§ 6-13-1601 — 6-13-1603, 6-13-1604 [Repealed], and 6-13-1605 [Repealed] effective prior to December 1, 2004, and prior to any consolidation, annexation, detachment, approval of a conversion charter, or any other type of reclassification or reorganization of a school district after December 31, 2004, a receiving or resulting school district shall obtain, retain, preserve, and, as appropriate, display historical artifacts of the former school district in the same manner as if the historical artifacts were those of the receiving or resulting school district.

History. Acts 2005, No. 2229, § 1; 2007, No. 1594, § 1.

A.C.R.C. Notes. References to “this subchapter” in §§ 6-13-1601 — 6-13-1603, 6-13-1604 [repealed], and 6-13-1605 [repealed], 6-13-1608, 6-13-1610 and 6-13-1611 may not apply to this section, which was enacted subsequently.

Amendments. The 2007 amendment substituted “retain, preserve, and, as appropriate, display historical artifacts of the former school district” for “retain and preserve historical artifacts of the school district,” and added “in the same manner as if the historical artifacts were those of the receiving or resulting school district.”

6-13-1610. Financial relief for debts acquired as a result of involuntary consolidations.

(a) As used in this section:

(1) “Accounts payable” means a debt owed by a school district on June 30 immediately prior to administrative consolidation, excluding bonded indebtedness or other long-term debt;

(2) “Act 60 school district” means a school district that was on the consolidation list under § 6-13-1602 and was involuntarily consolidated under § 6-13-1603(a)(3);

(3) “Available funding” means funds that are available to a school district for paying accounts payable or are reasonably expected to be collected and available for payment of accounts payable;

(4) “Excess accounts payable” means accounts payable of an Act 60 school district that exceed available funding; and

(5) “Improper expenditure exceptions” means an erroneous expenditure of federal or state funds that is noted as an audit exception and has been determined by the Department of Education to require an expenditure of funds by the resulting school district to be correct.

(b) If on July 1, 2004, or thereafter, the State Board of Education required an involuntary administrative consolidation under § 6-13-1603(a)(3) and the resulting district assumed excess accounts payable or improper expenditure exceptions incurred by the Act 60 school district before the July 1 administrative consolidation date that would have caused deficit spending if paid from the funds of the Act 60 district, the department shall provide supplemental funding to the resulting district.

(c)(1) The amount of the supplemental funding provided under subsection (b) of this section shall be equal to the amount of the excess accounts payable and improper expenditure exceptions assumed by the resulting school district.

(2)(A) The amount of accounts payable, excess accounts payable, improper expenditure exceptions, and available funding shall be determined by the department based on information provided in a final audit and other verifiable fiscal information available to the department.

(B) The audit of an Act 60 school district required under this section shall be completed within the time under § 6-20-1801(d) for school districts in fiscal distress.

(3) No supplemental funding shall be paid under this section until after completion of a final audit by the Division of Legislative Audit or a private certified public accountant that may conduct school district audits under § 6-20-1801.

(d)(1) Beginning on the date of the publication of the consolidation list under § 6-13-1602 each year, the department shall have authority to oversee all fiscal and accounting-related matters of all school districts on the consolidation list and shall require these school districts to have accurate records necessary to close all books within sixty (60) days of the end of the fiscal year.

(2) No contract or other debt obligation incurred by a school district for which the department has oversight authority under this section shall be valid or enforceable against a resulting district unless the contract or other debt obligation is preapproved in writing by the Commissioner of Education or his or her designee.

History. Acts 2005, No. 2230, § 1. in this section mean Acts 2003 (2nd Ex. Sess.), No. 60.
A.C.R.C. Notes. References to 'Act 60'

6-13-1611. Reports.

(a) By October 1, 2005, and by October 1 each year thereafter, the resulting or receiving districts of any school district that was administratively consolidated or administratively annexed under §§ 6-13-1601 — 6-13-1603, 6-13-1604 [repealed], and 6-13-1605 [repealed] shall file a written report with the House Interim Committee on Education, the Senate Interim Committee on Education, and the Department of Education indicating:

(1) What efforts were made and the results of those efforts for inclusion of parents from the affected district in the receiving or resulting district's activities, including, but not limited to, parent-teacher associations, booster clubs, and parent involvement committees;

(2) The number and percentage of students from the affected districts participating in an extracurricular activity, itemized by each extracurricular activity offered by the school district and, for each

activity, which school district the student attended prior to reorganization; and

(3) The employment status of each administrator by name, gender, and race before the administrative annexation or administrative consolidation, which school employed the administrator prior to administrative consolidation, and his or her employment status in the receiving or resulting district.

(b) The department shall develop or approve a survey to be used by the resulting or receiving districts to capture perceptual data from parents and students regarding their opinions on:

(1) Opportunities for inclusion or participation in the resulting or receiving district; and

(2) The efforts, if any, that were made to include parents from the affected district in the receiving or resulting district's activities, including, but not limited to, parent-teacher associations, booster clubs, and parent involvement committees.

History. Acts 2005, No. 2321, § 1.

6-13-1612. Academic support centers.

(a) The purpose of this section is to:

(1) Prevent students who attend administratively consolidated or administratively annexed schools from returning home to communities with little or no opportunities for supplemental academic support;

(2) Increase opportunities for access to library materials, academic resource materials, and educational technology for these students within their local communities; and

(3) Help advance academic performance for these students by providing opportunities for homework and tutorial assistance based on the Arkansas curriculum frameworks.

(b) An academic support center may be established in communities whose schools have been closed by administrative consolidation or administrative annexation under this subchapter to fulfill the objectives identified in subsection (a) of this section.

(c) The Department of Education shall:

(1) Establish rules to implement this section; and

(2) Report annually to the House Interim Committee on Education and the Senate Interim Committee on Education regarding the establishment of academic support centers and their effectiveness.

History. Acts 2007, No. 1575, § 1.

CHAPTER 14

SCHOOL ELECTIONS

SECTION.

6-14-101. Applicability of general election laws.

SECTION.

6-14-102. Annual school election date — Special school election.

SECTION.

- 6-14-103. [Repealed.]
- 6-14-104. [Repealed.]
- 6-14-105. [Repealed.]
- 6-14-106. Polling places.
- 6-14-107. [Repealed.]
- 6-14-108. Voter qualifications.
- 6-14-109. Notice of elections.
- 6-14-110. Secret ballot.
- 6-14-111. Ballots — Write-in candidates.
- 6-14-112. [Repealed.]
- 6-14-113. Election kits for school elections.

SECTION.

- 6-14-114. Counting of votes.
- 6-14-115. Return, canvass, and appeal — Filing.
- 6-14-116. Contest of election.
- 6-14-117. [Repealed.]
- 6-14-118. Expenses.
- 6-14-119. Compensation of election officials.
- 6-14-120. [Repealed.]
- 6-14-121. Runoff elections.
- 6-14-122. Consolidation, annexation, or merger of school districts.

Cross References. Payment of poll tax eliminated as voting requirement, Ark. Const., Amend. No. 51.

Preambles. Acts 1951, No. 403, contained a preamble which read: "Whereas, the statutes governing the notice for and the holding of school elections contain conflicting and overlapping requirements that result in unnecessary and burdensome costs upon the school districts of Arkansas, and also result in some uncertainty regarding proper procedure, and should be simplified;

"Now, therefore...."

Effective Dates. Acts 1931, No. 169, § 198: approved Mar. 25, 1931. Emergency clause provided: "It is found as a fact that the advent of the automobile, and the great improvement in the roads of the State have worked great changes in the system of administering the public schools of the State, and there is occasion to change the boundaries of many such districts before the end of the current school term, to relieve many of them of pressing indebtedness, to immediately administer to the health of many pupils in the schools, and to distribute State Funds to many of the schools in the near future to prevent some of them from having to close for the lack of funds; therefore, it is necessary that this act take immediate effect for the preservation of public peace, health, and safety; therefore, an emergency is declared and this act shall take effect and be in force immediately after its passage."

Acts 1935, No. 30, § 13: Feb. 14, 1935. Emergency clause provided: "This act being necessary for the immediate preservation of public peace, health and safety, an emergency is hereby declared to exist for

the reason that the condition of the public schools is such that the changes called for in this act are imperative and that the passage of this bill will remedy the present unworkable law as to the number of school directors authorized and this act shall take effect and be in force from and after its passage and approval as an emergency measure."

Acts 1939, No. 154, § 1: Feb. 28, 1939. Emergency clause provided: "Because of the necessity for immediate relief in certain school districts in the State of Arkansas and this act being necessary for the preservation of the health, safety and happiness of the people of the State of Arkansas an emergency is hereby declared to exist and this act shall be effective upon its passage and approval by the Governor."

Acts 1951, No. 403, § 10: Mar. 26, 1951. Emergency clause provided: "It is hereby ascertained and declared that many school districts of the state now engaged in building programs needed for the instruction and care of the pupils are being delayed because of uncertainties in the present laws governing school elections, and that therefore an emergency exists, and this act, being necessary for the preservation of the public peace, health and safety, shall be in full force and effect from and after its passage and approval."

Acts 1973, No. 882, § 2: Apr. 16, 1973. Emergency clause provided: "It is hereby found and determined by the General Assembly that under present law in case of a tie vote for school board director, the successful candidate is determined by drawing lots; that this method of determining the winner in case of a tie vote is not in accordance with the principles of democ-

racy and deprives the electors of the opportunity to select the candidate of their choice; that this Act is designed to provide for a run-off election in case of a tie vote for school board director and should be given effect immediately. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1979, No. 117, § 3: Feb. 13, 1979. Emergency clause provided: "It is hereby found and determined by the General Assembly that under the present law regarding the designation of polling places for school district elections, when a school district consists of territory in two or more counties, the county board of election commissioners of the county in which the district is administered is required to designate at least one polling place in each county in which any part of the district lies; that in the case of some districts having territory in more than one county, it is impractical to have a polling place in some counties in which a part of the district lies due to the fact of the limited accessibility of the area by regularly travelled roads and highways and the small numbers of voters in the area; that in some cases it would be more appropriate to have all polling places located in the county in which the school district is administered and that this Act is designed to permit the county board of election commissioners of the county in which the district is administered to designate polling places within that county for all electors of the district; and that this Act should be given effect at the earliest possible date. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1979, No. 829, § 3: Apr. 10, 1979. Emergency clause provided: "It is hereby found and determined by the Seventy-Second General Assembly that in many instances voters are not getting prior notice of polling places prior to school elections, and that this Act is immediately necessary to assure that the voters of this State are notified of such polling places. Therefore, an emergency is hereby declared to exist and this Act being immedi-

ately necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1987, No. 845, § 3: Apr. 8, 1987. Emergency clause provided: "It is hereby found and determined by the General Assembly that this Act should go into effect prior to the next school election and that the next school election will occur in March of 1987, and that unless this emergency clause is adopted this Act will not go into effect until after that school election. Therefore, an emergency is hereby declared to exist and this Act being immediately necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1987, No. 969, § 1: effective in the year 1988 and annually thereafter.

Acts 1988 (3rd Ex. Sess.), No. 4, § 3: Feb. 5, 1988, and No. 11, § 3: Feb. 9, 1988. Emergency clauses provided: "It is hereby found and determined by the General Assembly that some school districts in this State have incurred substantial damage to their physical facilities as a result of fire and other natural disasters; that as a result there is a need for the next annual school election to be held on a date other than the third Tuesday in September as now required by law; and that this Act so provides. Therefore, an emergency is hereby declared to exist and this Act being immediately necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1992 (1st Ex. Sess.), No. 62, § 5: Mar. 19, 1992. Emergency clause provided: "It is hereby found and determined by the Seventy-Eighth General Assembly that under Ark. Code § 26-80-111, when two or more school districts are consolidated into one district, the rates of millages voted in the former separate districts remain in effect until such time as a new common millage rate proposed in the new district is approved by a majority of the electors voting in the annual school election in the new district; it is further determined by the General Assembly that the current law results in serious inequities when substantially different millage rates were levied in the former districts and the electors of the new district fail to approve a single rate for the new district; that this

act should go into effect immediately in order to eliminate these inequities and provide a more solid basis for those districts that have consolidated or are considering consolidation. Therefore, an emergency is hereby declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1993, No. 181, § 6: Feb. 19, 1993. Emergency clause provided: "It is hereby found and determined by the Seventy-Ninth General Assembly of the State of Arkansas that some school districts in this state incurred substantial damages to their physical facilities from fires or other natural disasters occurring prior to the 1992 annual school election, but too late to enable such districts to change the date of the 1992 election, that present law does not clearly permit such districts to change the date of the 1993 election, and that there is an urgent need for such school districts to be able to advance the date of the 1993 election to obtain voter approval for new continuing annual debt service taxes to retire bonds to be issued to finance restoration of the physical facilities of the district. Therefore, an emergency is hereby declared to exist, and this act being necessary for the immediate preservation of the public peace, health, and safety, shall be in full force and effect from and after its passage and approval."

Acts 1994 (1st Ex. Sess.), No. 1, §§ 7, 11: retroactive to Feb. 1, 1994. Emergency clause provided: "It is hereby found and determined by the Seventy-Ninth General Assembly that application of the current formula used in the computation of Minimum Foundation Program Aid for allocation to local school districts will result in significant inequities among the school districts; that this Act will require the formula to utilize a charged assessment levied against each district's assessed valuation based on actual assessment figures; that failure to implement this Act immediately will cause undue hardships to schools. Therefore, an emergency is hereby declared to exist and this Act, being necessary for the preservation of the public peace, health, and safety shall be in full force and effect retroactive to February 1, 1994."

Identical Acts 1995, Nos. 930 and 941, § 3: Jan. 1, 1996.

Acts 1995, No. 1131, § 5: Apr. 10, 1995. Emergency clause provided: "It is hereby found and determined by the General Assembly that an error in the content or date of publication of a school district budget may, under present law, result in severe impairment of district operations for the then ensuing school year. Therefore, an emergency is hereby declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall be in full force and effect from and after its passage and approval."

Acts 1997, No. 545, § 5: Mar. 17, 1997. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that it is in the best interests of efficiency and the voting public that any changes in law pertaining to the authority of the county election commissioners to fix polling places be enacted immediately. Therefore an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 1997, No. 1120, § 5: Apr. 5, 1997. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that some school districts in this state have incurred substantial damages to their physical facilities from fires or other natural disasters and find, subsequent to the annual school election, that insurance proceeds are insufficient to restore the facilities; that current law does not permit local school districts to change the date of the annual election in such circumstances. It is further found and determined that Amendment 74 to the Arkansas Constitution authorizes the General Assembly to enact laws providing for special school elections to consider millages supplemental to the uniform rate of tax required by the Constitution and that such special election

could be utilized by school districts in unforeseen emergency situations. Therefore an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 1997, No. 1300, § 29: Apr. 10, 1997. Emergency clause provided: "It is found and determined by the General Assembly that Amendment No. 74 to the Arkansas Constitution was adopted by the electors of this state on November 5, 1996; that Amendment No. 74 became effective on adoption and applies to ad valorem property taxes due in 1997; that the tax books of each county will open for collection of taxes in the near future and that local officials and school districts must have direction on procedures and effects of the various actions required. The General Assembly further finds that Amendment No. 74 requires enactment of legislation to implement the provisions thereof and that this act provides such implementation and should be given effect immediately to accomplish the purposes of Amendment No. 74 in an orderly, effective and efficient manner. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 1999, No. 1078, § 92: effective July 1, 2000.

Acts 2001, No. 994, § 2: Mar. 21, 2001. Emergency clause provided: "It is hereby found and determined by the Eighty-third General Assembly that elections for school district directors occur in September and if this act does not become effective imme-

diately, candidates for school district directors will be unable to take advantage of the provisions of this act. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 2003, No. 1473, § 74: July 1, 2003. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act includes technical corrects to Act 923 of 2003 which establishes the classification and compensation levels of state employees covered by the provisions of the Uniform Classification and Compensation Act; that Act 923 of 2003 will become effective on July 1, 2003; and that to avoid confusion this act must also [become] effective on July 1, 2003. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2003."

Acts 2003 (2nd Ex. Sess.), No. 28, § 10: Dec. 31, 2003. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the Arkansas Supreme Court has declared that the current method that the state uses to determine compliance with Amendment 74 to be unconstitutional and has instructed the General Assembly to take action before the termination of the court's stay of its mandate. It is also found that the people must be informed as early as possible the impact of the court's ruling on the property taxes that they pay for education. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the

Governor and the veto is overridden, the date the last house overrides the veto.”

Acts 2003 (2nd Ex. Sess.), No. 105, § 12: Feb. 10, 2004. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that the Arkansas Supreme Court has declared that the current method that the state uses to determine compliance with Amendment 74 to be unconstitutional and has instructed the General Assembly to take action before the termination of the court’s stay of its mandate. It has also found that the people must be informed as early as possible of the impact of the

court’s ruling on the property taxes that they pay for education. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

Acts 2005, No. 2233, § 48: effective Jan. 1, 2006.

RESEARCH REFERENCES

Am. Jur. 68 Am. Jur. 2d, Schools, §§ 10, 11.

6-14-101. Applicability of general election laws.

The general election laws shall apply to school elections insofar as they are not in conflict with the school election laws.

History. Acts 1991, No. 496, § 1. 1987, No. 248, § 16. The former section was derived from Acts 1949, No. 56, § 1; A.S.A. 1947, § 80-317.

Publisher’s Notes. Former § 6-14-101, concerning the applicability of general election laws, was repealed by Acts

6-14-102. Annual school election date — Special school election.

(a)(1) The annual school election shall be held in each school district of the state on the third Tuesday in September.

(2) The annual school election shall only concern issues authorized to be on the ballot by the Arkansas Constitution or by statute, and no other issues shall appear on the ballot.

(b) The board of directors of any school district shall have the authority to hold a school election concerning the tax rate or debt issues on a date other than that fixed by law provided that:

(1) All constitutional and statutory requirements for the annual school election are met, notwithstanding subdivision (a)(1) of this section;

(2) The election is held before the date of the annual school election; and

(3) The Commissioner of Education approves the date of the election.

(c)(1) In any election year, if no more than one (1) candidate for school district director presents a petition or notice in writing to the county board of election commissioners as required by § 6-14-111 and if there are no other ballot issues to be submitted to school district

electors for consideration, with the exception of the local tax rate if that rate is not being changed or restructured, the board of directors of any school district, by resolution, may request the county board of election commissioners to reduce the number of polling places or to open no polling places on election day so that the election can be conducted by absentee ballot and early voting only.

(2) If requested by resolution adopted by the board of directors of any school district, the county board of election commissioners may provide that no polling places be open on election day so that the election can be conducted by absentee ballot and early voting only, if:

(A) No more than one (1) candidate for school district director presents a petition or notice in writing to the county board of election commissioners as required by § 6-14-111; and

(B) There are no other ballot issues to be submitted to school district electors for consideration, with the exception of the local tax rate if that rate is not being changed or restructured.

(3) In a county that uses voting machines or electronic vote tabulating devices, the county board of election commissioners may choose to use paper ballots counted by hand in combination with voting machines equipped for use by individuals with disabilities.

History. Acts 1959, No. 248, § 1; 1963, No. 121, § 1; 1967, No. 171, § 1; A.S.A. 1947, § 80-301; Acts 1987, No. 969, § 1; 1988 (3rd Ex. Sess.), No. 4, § 1; 1988, (3rd Ex. Sess.), No. 11, § 1; 1993, No. 181, § 1; 1993, No. 294, § 8; 1994 (1st Ex. Sess.), No. 1, § 6; 1995, No. 1131, § 1; 1995, No. 1281, § 1; 1997, No. 545, § 1; 1997, No. 1120, § 1; 1999, No. 1078, § 49; 1999, No. 1196, § 1; 2003, No. 1295, § 1; 2003, No. 1441, § 3; 2005, No. 1174, § 1; 2005, No. 2145, § 3; 2005, No. 2233, § 1; 2007, No. 1049, § 4.

A.C.R.C. Notes. Former subsection (d) was specifically repealed by Acts 2005, No. 1174, § 1. Subsection (d) was amended by Acts 2005, No. 2145, § 3 and Acts 2007, No. 1049, § 4 to read as follows:“(d) The board of directors of any school district shall have the authority to request the county board of election commissioners to call a special election to be held on a date in accordance with § 7-5-103(b)(3) and (4) for the purpose of considering a rate of tax for additional millages for maintenance and operations or for debt service as authorized by Arkansas Constitution, Amendment 74, provided that:“(1) All constitutional and statutory requirements for a special school election are met; and“(2) The date of the election is approved by the commissioner.”

Publisher's Notes. Acts 1993, No. 181,

§ 2 provided that the act “shall be applicable to fires and other natural disasters occurring after July 15, 1992.”

Acts 1995, No. 1281 became law without the Governor's signature.

Amendments. The 2005 amendment by No. 1174 redesignated former (a) as present (a)(1); inserted (a)(2); substituted “a school election concerning the tax rate or debt issues” for “the annual school election” in (b); deleted former (b)(1); redesignated former (b)(2) as present (b)(1); added “notwithstanding subdivision (a)(1) of this section” in present (b)(1); inserted present (b)(2) and made related changes; made a stylistic change in (b)(3); inserted “with the exception of the local tax rate if that rate is not being changed or restructured” in (c)(1) and (c)(2); deleted “duly adopted” following “by resolution” in (c)(1); inserted “counted by hand” in (c)(3); and deleted former (d).

The 2005 amendment by No. 2145 redesignated former (d)(3) as present (d)(3)(A); inserted “except as provided in subdivision (d)(3)(B) of this section” in present (d)(3)(A); and added (d)(3)(B).

The 2005 amendment by No. 2233, in (c)(3), substituted “vote tabulating devices” for “voting” and “counted by hand... with disabilities” for “for the election”.

The 2007 amendment, in (d), inserted “to be held on a date in accordance with

§ 7-5-103(b)(3) and (4)” in the introductory language, deleted former (3), and made related changes.

Cross References. Time of special elections, § 7-5-103.

Time of special elections for initiative and referendum elections, § 14-14-917(a)(4).

Effective Dates. Acts 2005, No. 2233, § 48: amendment effective Jan. 1, 2006.

“The provisions of this act become effective retroactive to February 1, 1994.”

Acts 1994 (1st Ex. Sess.), No. 1, § 7, provided:

CASE NOTES

ANALYSIS

Injunction.
Validity of Section.

Injunction.

Courts are without authority to enjoin the holding of a regular election regularly called. *Brown v. McDaniel*, 244 Ark. 362, 427 S.W.2d 193 (1968).

Validity of Section.

The fact that the title of the law enacting this section stated that it was to require the annual school election to be held on the last Saturday in September did not invalidate this section, the title being no part of the law. *Glover v. Henry*, 231 Ark. 111, 328 S.W.2d 382 (1959).

6-14-103. [Repealed.]

Publisher’s Notes. This section, concerning postponement of election due to natural disaster, was repealed by Acts 1993, No. 294, § 8. The section was de-

rived from Acts 1979, No. 130, §§ 1-3; A.S.A. 1947, §§ 80-301.1 — 80-301.3; Acts 1987, No. 969, § 2.

6-14-104. [Repealed.]

Publisher’s Notes. This section, concerning the special election called by the county board of education, was repealed by Acts 1999, No. 1078, § 50. The section was derived from Acts 1931, No. 169,

§§ 78, 79, 83, 84; Pope’s Dig., §§ 11514, 11515, 11517, 11518; A.S.A. 1947, §§ 80-312 — 80-314; Acts 1987, No. 248, § 16.

Effective Dates. Acts 1999, No. 1078, § 92: July 1, 2000.

6-14-105. [Repealed.]

Publisher’s Notes. This section, concerning special elections on petition of a school district board of directors, was repealed by Acts 2005, No. 1174, § 2. The section was derived from Acts 1951, No.

403, § 3; A.S.A. 1947, § 80-320; Acts 2003, No. 1441, § 4.

This section was also amended by Acts 2005, No. 2145, § 4, which was subsequently subject to the repeal.

6-14-106. Polling places.

(a) The county board of election commissioners of each county shall designate all the polling sites for each school district in its respective county, including districts having territory in more than one (1) county but which are domiciled in its county for administrative purposes, and shall provide the election supplies and appoint the election officials for holding all school elections.

(b) If a school district has territory in more than one (1) county, the county board of election commissioners of the county in which it is domiciled shall either:

(1) Designate one (1) or more polling sites in each county in which any part of the school district lies; or

(2) Designate one (1) or more polling sites in the county in which the school district is domiciled for administrative purposes, at which all qualified electors of the school district, regardless of their county of residence, may vote.

(c) When the county board of election commissioners of any county in which a school district is domiciled for administrative purposes determines that a polling site shall not be designated in the other county in which a portion of the school district lies, it shall designate and publish in a paper of general circulation in that area the location of the polling site in the county in which the school district is administered for those electors of the school district in the other county to vote. The county board of election commissioners shall take appropriate action to assure that the necessary precinct registration files are delivered to that polling site in order that the electors in the nonadministering county may vote in the school election.

(d) The board of directors of each school district shall cause to be published, by at least one (1) insertion in a newspaper with general circulation in the county or counties in which the school district is located, not more than ten (10) days nor less than three (3) days before any school election, a notice identifying the polling site for each ward or precinct. If the polling site for any ward or precinct has changed since the last election, the notice shall indicate the change.

History. Acts 1951, No. 403, § 1; 1979, No. 117, § 1; 1979, No. 829, § 1; A.S.A. 1947, §§ 80-318, 80-319.1; Acts 1997, No. 443, § 1; 2005, No. 1174, § 3.

Amendments. The 2005 amendment substituted “and publish in a paper of

general circulation in that area the location of the polling site” for “a polling site” in (c); and, in (d), substituted “county or counties in which” for “county wherein” and “(3) days before” for “(3) days prior to.”

CASE NOTES

ANALYSIS

Designation of Precincts.
Election Officers.

Designation of Precincts.

The designation of voting precincts in a school district election, mandatory before election, becomes directory after the election so that voters otherwise qualified will not be disfranchised by failure of the election commissioners to perform their duties and votes of those voters will be

counted. *Christenson v. Felton*, 226 Ark. 985, 295 S.W.2d 361 (1956).

Election Officers.

Director was not qualified to serve as an election officer in a school election when he was a candidate to succeed himself. *State ex rel. Robinson v. Jones*, 194 Ark. 445, 108 S.W.2d 901 (1937) (decision under prior law).

Cited: *Phillips v. Melton*, 222 Ark. 162, 257 S.W.2d 931 (1953); *Henley v. Goggins*, 250 Ark. 912, 467 S.W.2d 697 (1971).

6-14-107. [Repealed.]

Publisher's Notes. This section, concerning annual school elections, was repealed by Acts 1993, No. 294, § 8. The

section was derived from Acts 1937, No. 319, § 1; Pope's Dig., § 11665; A.S.A. 1947, § 80-304; Acts 1987, No. 969, § 3.

6-14-108. Voter qualifications.

All persons who have registered to vote in the manner prescribed by the Arkansas Constitution, Amendment 51, at least thirty (30) calendar days immediately prior to the school election shall be deemed qualified electors of the school district in which they reside and shall have the privilege of voting in all school elections.

History. Acts 1937, No. 319, § 2; Pope's Dig., § 11666; A.S.A. 1947, § 80-305; Acts 1987, No. 248, § 11; Acts 1995, No. 930, § 1; 1995, No. 941, § 1.

CASE NOTES**Precinct.**

Although as a general rule a voter must vote in the ward or precinct in which he resides, votes of otherwise qualified voters in a school district election in which the election commissioners failed to designate

voting precincts are not void because cast in the wrong precinct for in the absence of designated precincts there could be no showing of voting in the wrong precinct. *Christenson v. Felton*, 226 Ark. 985, 295 S.W.2d 361 (1956).

6-14-109. Notice of elections.

(a) The board of directors of each school district shall give notice by advertisement one time a week for three (3) weeks before each election to be held within the school district, setting out the time, place, and questions to be submitted to the electors at the election.

(b) The advertisement provided for shall begin at least twenty (20) days before the date of the school election and shall be in a newspaper either published in or having a bona fide circulation in the county or counties in which the school district is administered.

(c) This provision for notice of school elections shall be the sole requirement for the publication of the notice.

History. Acts 1951, No. 403, § 2; A.S.A. 1947, § 80-319; Acts 1999, No. 1490, § 1; 2005, No. 1174, § 4.

substituted "(3) weeks before" for "(3) weeks of" in (a); and substituted "or counties in which" for "wherein" in (b).

Amendments. The 2005 amendment

6-14-110. Secret ballot.

All elections shall be by secret ballot, and none of the electors shall be required to sign his or her ballot.

History. Acts 1935, No. 30, § 8; Pope's Dig., § 11528; A.S.A. 1947, § 80-309.

6-14-111. Ballots — Write-in candidates.

(a)(1) All candidate filings pursuant to this subchapter shall be with the county clerk of the county in which the school district is domiciled for administrative purposes.

(2) All actions required of county boards of election commissioners shall be performed by the county board of election commissioners of the county in which the school district is domiciled for administrative purposes.

(b) The county board of election commissioners shall prepare and furnish ballots and all other necessary supplies for the annual school election.

(c) A candidate for a position on the board of directors of a school district may qualify for the ballot by filing a petition or filing a notice of write-in candidacy.

(d) The petition shall be directed to the county clerk and shall contain the names of at least twenty (20) registered voters who are residents of the school district and, if applicable, the electoral zone for the position.

(e) The petition and the candidate's political practices pledge shall be filed with the clerk during a one-week period ending at 12:00 noon sixty (60) days before the annual school election.

(f)(1) Candidates may begin circulating petitions not earlier than ninety (90) days before the annual school election.

(2) A signature dated more than ninety (90) days before the school election shall not be counted by the clerk as a valid signature.

(g) Votes for a write-in candidate for school district director shall not be counted or tabulated unless the candidate files with the county clerk during a one-week period ending at 12:00 noon fifty-five (55) days before the annual school election:

(1) A written notice of his or her intention to be a write-in candidate; and

(2) The political practices pledge.

(h) The county board of election commissioners shall place on the ballot as candidates for school district director the names of any qualified registered voters whose political practices pledges have been filed and whose petitions have been filed with and verified by the county clerk of the county in which the school district is domiciled for administrative purposes.

(i)(1) On the day after the deadline for candidates to file for a position on the board of directors by petition, the county clerk shall certify to the board of election commissioners the names of those candidates who are registered voters in the school district and the electoral zone, if applicable, and who have qualified for the ballot by petition.

(2) Immediately after the close of the write-in filing period, the county clerk shall certify to the county board of election commissioners any write-in candidates who have filed notices and political practices pledges with the clerk.

(j) The order in which the names of the respective candidates are to appear on the ballot shall be determined by lot at the public meeting of the county board of election commissioners held not later than fifty-five (55) days before the annual school election.

History. Acts 1969, No. 70, § 1; A.S.A. 1947, § 80-308; Acts 1991, No. 294, § 1; 1997, No. 443, § 2; 1999, No. 1078, § 51; 2001, No. 994, § 1; 2003, No. 1473, § 4; 2005, No. 1174, § 5; 2007, No. 1049, § 5.

Amendments. The 2005 amendment inserted “of the county in which the school

district is domiciled for administrative purposes” throughout this section.

The 2007 amendment rewrote the section.

Effective Dates. Acts 1999, No. 1078, § 92: July 1, 2000.

CASE NOTES

Cited: Little Rock Sch. Dist. v. Pulaski County Special Sch. Dist. No. 1, 831 F. Supp. 1453 (E.D. Ark. 1993).

6-14-112. [Repealed.]

Publisher’s Notes. This section, concerning duplicate ballots and ballot boxes, was repealed by Acts 1997, No. 443, § 3.

The section was derived from Acts 1939, No. 154, § 1; A.S.A. 1947, § 80-310; Acts 1987, No. 248, § 12.

6-14-113. Election kits for school elections.

(a) In order that the annual school elections held throughout this state will be conducted in a more uniform manner, the State Board of Education is authorized and directed to prepare and distribute annually upon the request of the county board of election commissioners of each county annual school election kits or packages designed especially for conducting annual school elections in the manner required by law.

(b) The kits or packages shall contain forms for a list of voters and duplicate list of voters, tally sheets, oaths of election officials, certificates of results, and notices of election. In addition thereto, the kits or packages shall contain carbon paper, envelopes for regular, irregular, and spoiled ballots, instructions for voters and election officials, seals, and other necessary equipment and supplies except ballot boxes, ballots, and certified lists of eligible voters, which shall be furnished to the election officials in the manner provided by law.

(c)(1) The kits or packages provided for in this section shall be distributed annually to the several county boards of election commissioners at least thirty (30) days prior to the annual school election.

(2) A sufficient number of kits or packages shall be supplied to each county in order that at least one (1) kit or package may be made available at each voting precinct or voting place in the county.

(d) The cost of the kits or packages prepared by the Department of Education pursuant to this section shall be paid from the maintenance funds provided for the department by legislative appropriation.

History. Acts 1965, No. 71, §§ 1-3; A.S.A. 1947, §§ 80-332 — 80-334; Acts 1997, No. 443, § 4.

6-14-114. Counting of votes.

When the polls of each election are closed, the election officials shall immediately proceed to count the results and make returns thereof to the county clerk showing:

- (1) The number of votes cast for each person for school district director;
- (2) The number of votes cast for the school tax;
- (3) The number of votes cast against the school tax;
- (4) The number of mills for:
 - (A) The additional mills for maintenance and operation;
 - (B) The additional mills for maintenance and operation that have been designated dedicated maintenance and operation mills;
 - (C) The debt service millage; and
 - (D) The total millage rate levied for all purposes in the school district in excess of the uniform rate of tax; and
- (5) The number of votes cast for and against any other question submitted at the election.

History. Acts 1935, No. 30, § 11; Pope's Dig., § 11531; A.S.A. 1947, § 80-311; Acts 1997, No. 443, § 5; 1997, No. 1300, § 20;

2003 (2nd Ex. Sess.), No. 28, § 2; 2003 (2nd Ex. Sess.), No. 105, § 3.

CASE NOTES

ANALYSIS

Contest.

Mandamus.

Substantial Compliance.

Contest.

The jurisdiction of the county court with respect to school elections extends only to canvassing returns and certifying elections and that court has no jurisdiction of an election contest as such jurisdiction is lodged in the circuit court. *Jones v. Lawless*, 226 Ark. 110, 288 S.W.2d 324 (1956).

County court could not go beyond election returns in school election and inquire into qualifications of voters or other matters affecting the validity of the ballots as these matters related to a contest of the election so that jurisdiction was in the circuit court. *Jones v. Lawless*, 226 Ark. 110, 288 S.W.2d 324 (1956).

Mandamus.

Where no appeal was taken from judgment of county court adjudging that certain candidate had not been elected a school director, mandamus did not lie to compel county judge to certify the election of such candidate to the office. *Jackson v. Collins*, 193 Ark. 737, 102 S.W.2d 548 (1937).

Substantial Compliance.

Evidence concerning certification of school election results showed substantial compliance with procedures for return and canvass. *Commonwealth Farm Loan Co. v. Lester*, 179 Ark. 293, 15 S.W.2d 991 (1929) (decision under prior law).

Cited: *Thomas v. Spires*, 180 Ark. 671, 22 S.W.2d 553 (1929); *Shimek v. Janesko*, 188 Ark. 418, 66 S.W.2d 626 (1933); *Phillips v. Melton*, 222 Ark. 162, 257 S.W.2d 931 (1953).

6-14-115. Return, canvass, and appeal — Filing.

(a) At the close of the election, the election officials at each polling place or at the place of central tabulation shall make a return of the votes, certify the return, and file the certification in the office of the county clerk of the county in which the school district is administered for delivery to its county board of election commissioners, who no earlier than forty-eight (48) hours and no later than ten (10) days after the election shall proceed to ascertain and declare the results of the election and file the certification of election and one (1) of the ballots with the county clerk.

(b) The county clerk of the county in which the school district is administered shall file a certified copy of the certification of election with the county clerk of each county in which any part of the school district lies.

(c) The county clerk of the county in which the school district is administered shall submit a certified copy of the certification of election and a copy of the ballot to the Commissioner of Education no later than five (5) days following the requirements set forth in subsection (a) of this section.

History. Acts 1951, No. 403, § 1; 1979, No. 117, § 1; A.S.A. 1947, § 80-318; Acts 1987, No. 248, § 14; 1997, No. 443, § 6; 2003, No. 1165, § 1; 2005, No. 1174, § 6.

Amendments. The 2005 amendment added (c).

CASE NOTES

ANALYSIS

Appeal.
Authority of Commissioners.
Failure to File.
Illegal Votes.
Jurisdiction.
Substantial Compliance.

Appeal.

This section does not conflict with § 6-14-116 since appeal referred to in this section is merely an appeal as to correctness of tabulation of the returns, while original proceeding filed pursuant to § 6-14-116 is a contest. *Parsons v. Mason*, 223 Ark. 281, 265 S.W.2d 526 (1954).

Since an action under this section only tests the correctness of the county court's tabulation of the returns, to allow testimony as to the legality of the establishment of a polling place, action must be taken under § 6-14-116. *Guthrie v. Baker*, 224 Ark. 752, 276 S.W.2d 54 (1955).

Authority of Commissioners.

Evidence sufficient to prove county board of election commissioners did not go beyond its authority in rejecting votes for write-in candidate and declaring the opponent's votes the only ones that could be legally counted. *Byrd v. Short*, 228 Ark. 369, 307 S.W.2d 871 (1957).

Failure to File.

Violation of this section would not establish absolute liability, it would only be evidence of negligence which the jury could accept or reject as it saw fit. *America Casualty Co. v. Quitman School Dist.*, 293 Ark. 457, 739 S.W.2d 144 (1987).

Illegal Votes.

This section cannot be used to purge illegal votes in an election to consolidate school districts. *Adams v. Dixie School Dist.*, 264 Ark. 178, 570 S.W.2d 603 (1978).

Jurisdiction.

Where complaint and amended complaint were directed to a challenge of

school election and matters collateral to election, the circuit court has exclusive jurisdiction. *Douglas v. Williams*, 240 Ark. 933, 405 S.W.2d 259 (1966).

Substantial Compliance.

Evidence concerning certification of school election results showed substantial

compliance with former similar section. *Commonwealth Farm Loan Co. v. Lester*, 179 Ark. 293, 15 S.W.2d 991 (1929) (decision under prior law).

Cited: *Phillips v. Melton*, 222 Ark. 162, 257 S.W.2d 931 (1953); *Henley v. Goggins*, 250 Ark. 912, 467 S.W.2d 697 (1971).

6-14-116. Contest of election.

(a) If the election of any member of a school district board of directors is contested, it shall be before the circuit court of the county in which the school district is domiciled.

(b) All actions to contest the election shall be commenced within twenty (20) days after the date the election is certified.

(c) Actions to contest the election of school district officers shall follow the procedures set out in § 7-5-801 et seq.

History. Acts 1951, No. 366, §§ 1-4; A.S.A. 1947, §§ 80-321 — 80-324; Acts 1987, No. 248, § 15; 1999, No. 1078, § 52; 2005, No. 1174, § 7.

Amendments. The 2005 amendment substituted “county in which” for “county

wherein” in (a); and substituted “date the election is certified” for “election at which any such person was elected” in (b).

Effective Dates. Acts 1999, No. 1078, § 92; July 1, 2000.

RESEARCH REFERENCES

U. Ark. Little Rock L.J. Heller and Sallings, *Survey of Public Law*, 3 U. Ark. Little Rock L.J. 296.

CASE NOTES

ANALYSIS

Applicability.

Appeal.

Jurisdiction.

Time of Filing.

Applicability.

An action under §§ 6-14-109 and 6-14-115 tests only the correctness of the county court's tabulation of the returns, so in order to allow testimony as to the legality of the establishment of a polling place, an action must be brought under this section. *Guthrie v. Baker*, 224 Ark. 752, 276 S.W.2d 54 (1955).

Appeal.

Section 6-14-115 does not conflict with this section, since appeal referred to in § 6-14-115 is merely an appeal as to correctness of tabulation of the returns, while original proceeding filed pursuant

to this section is a contest. *Parsons v. Mason*, 223 Ark. 281, 265 S.W.2d 526 (1954).

Jurisdiction.

In a contest of the election of a member of a county board of education or member of a school district board of directors the sole forum is the circuit court of the county wherein the contested office exists and its jurisdiction is invoked even in the absence of notice to the contestee where the statutory procedures of this section and § 7-5-506 are followed. *Kirk v. Roach*, 226 Ark. 799, 294 S.W.2d 335 (1956).

Circuit court had jurisdiction of election contest for county board of education although summons was not issued and served on defendant as required by § 7-5-506, where notice was served on defendant under § 7-5-501, he entered appearance and never questioned sufficiency of

service before or during trial. *Bradley v. Jones*, 227 Ark. 574, 300 S.W.2d 1 (1957).

Where complaint and amended complaint were directed to a challenge of the school election and matters collateral to that election, the circuit court had exclusive jurisdiction. *Douglas v. Williams*, 240 Ark. 933, 405 S.W.2d 259 (1966).

Intent of this section was to place the jurisdiction for the contest of all school election matters in the circuit court. *Adams v. Dixie School Dist.*, 264 Ark. 178, 570 S.W.2d 603 (1978).

Time of Filing.

Contest proceeding was held not timely. *Parsons v. Mason*, 223 Ark. 281, 265 S.W.2d 526 (1954).

Suit brought within statutory period not dismissed where delay in holding trial resulted from court's crowded docket. *Allen v. Rankin*, 269 Ark. 517, 602 S.W.2d 673 (1980).

Cited: *Phillips v. Melton*, 222 Ark. 162, 257 S.W.2d 931 (1953); *Cowger v. Mathis*, 255 Ark. 511, 501 S.W.2d 212 (1973); *Allen v. Rankin*, 269 Ark. 517, 602 S.W.2d 673 (1980).

6-14-117. [Repealed.]

Publisher's Notes. This section, concerning unlawful acts and penalties therefor, was repealed by Acts 1997, No. 443,

§ 7. The section was derived from Acts 1935, No. 30, § 10; Pope's Dig., § 11530; A.S.A. 1947, § 80-316.

6-14-118. Expenses.

(a) In school elections, the school districts in the county shall reimburse the county for the entire cost of the election, with each school district's share of the total being determined by multiplying the total cost of the election by a fraction, the numerator of which is the number of votes cast in the specific school election and the denominator of which is the total number of votes cast in the entire election.

(b) At all annual or special elections, the board of directors of each school district shall pay the expenses of the election out of the school fund.

History. Acts 1931, No. 169, § 85; Pope's Dig., § 11519; A.S.A. 1947, § 80-315; Acts 1987, No. 248, § 13; 1993, No. 978, § 1; 2007, No. 1200, § 1.

Amendments. The 2007 amendment rewrote (a), and inserted "school" in (b).

6-14-119. Compensation of election officials.

The school district board may allow sufficient compensation to the election officials of all elections to secure good citizens to act in those capacities.

History. Acts 1935, No. 30, § 9; Pope's Dig., § 11529; A.S.A. 1947, § 80-307; Acts 1997, No. 443, § 8.

6-14-120. [Repealed.]

Publisher's Notes. This section, concerning election of school district boards of directors, was repealed by Acts 2005, No. 2151, § 32. The section was derived from Acts 1935, No. 30, § 2; Pope's Dig., § 11522; Acts 1973, No. 882, § 1; A.S.A.

1947, § 80-335; Acts 1997, No. 443, § 9; Acts 2005, No. 1174, § 8.

This section was also amended by Acts 2005, No. 1174, § 8, which was subsequently subject to repeal.

6-14-121. Runoff elections.

(a)(1) Whenever there are more than two (2) candidates for election to any position on a board of directors at any election held in this state and whenever no candidate for any school district position receives a majority of the votes cast for the office or whenever there is a tie vote, there shall be a runoff election held in the school district.

(2) The names of the two (2) candidates receiving the highest number of votes, but not a majority, shall be placed on the ballot to be voted upon by the qualified electors for that position on a school district board of directors.

(3) The runoff election shall be held three (3) weeks following the date of the election.

(b) The person receiving the majority of the votes cast for the position at the runoff election shall be declared elected.

(c) If one (1) of the two (2) candidates who received the highest number of votes for a position withdraws prior to certification of the result of the school election, the remaining candidate who received the most votes at the school election shall be declared elected to the office and there shall be no school election runoff.

(d)(1) In the event that the two (2) candidates seeking election to the same school district position shall receive the same number of votes in a runoff election, a tie shall be deemed to exist.

(2) The county board of election commissioners shall determine the winner by lot at an open public meeting and in the presence of the two (2) candidates.

(e) The provisions of this section are intended to be in addition to and supplemental to the laws of this state pertaining to the election of school district boards of directors.

History. Acts 1987, No. 845, §§ 1, 2; 1993, No. 294, § 8; 1997, No. 443, § 10; 1999, No. 1078, § 53; 2005, No. 1174, § 9; 2007, No. 1049, § 6.

Amendments. The 2005 amendment inserted "or whenever there is a tie vote" in (a)(1); and inserted "in a runoff election" in (c).

The 2007 amendment inserted present (c), and redesignated the remaining subsection accordingly.

Effective Dates. Acts 1999, No. 1078, § 92: July 1, 2000.

CASE NOTES

In General.

There is no evidence that the majority vote requirement has had any impact on the success or failure of any black candidate in a school district election in Little

Rock. *Little Rock Sch. Dist. v. Pulaski County Special Sch. Dist. No. 1*, 831 F. Supp. 1453 (E.D. Ark. 1993).

Cited: *Harvell v. Ladd*, 759 F. Supp. 525 (E.D. Ark. 1991).

6-14-122. Consolidation, annexation, or merger of school districts.

(a) The consideration of the question of the consolidation or annexation of two (2) or more school districts, or parts thereof, in their entireties, kindergarten through twelfth grade (K-12), may be made at the annual school election with the issue of combining the school districts and the levying of a specified tax millage to support the new school district placed on the ballot as a single issue in order to assure that when the two (2) or more school districts, or parts thereof, are combined into one (1) school district, a single millage will be levied for support of the new school district.

(b) The boards of directors of the school districts may, by resolution duly adopted and with the approval of the Commissioner of Education, set a date for the annual school election in that year for the school districts involved on a date other than the date set in § 6-14-102 for all school districts, provided only one (1) annual school election may be held in any school district in one (1) calendar year.

(c) If the State Board of Education is petitioned by the board of directors of a school district or districts, by resolution duly adopted by majority vote of each of the local boards of directors, or when petitioned by at least twenty-five percent (25%) of the qualified electors of a school district or districts as certified in writing by the county clerk of each county where the school district or districts are located, the state board may call a special election to be held in accordance with § 7-5-103(b) to consider the question of consolidation or annexation of the school districts as otherwise allowed for in subsection (a) of this section.

(d) The special election on consolidation or annexation shall be held by the same officials at the same polling places, and the returns shall be made, canvassed, and published in the same manner as is provided by law for annual school elections.

(e) If an election is not held in the newly formed school district, the vote on the millage for the newly formed school district will be held at the next annual school election.

History. Acts 1992 (1st Ex. Sess.), No. 62, § 1; 2001, No. 1225, § 2; 2005, No. 2145, § 5; 2007, No. 1049, § 7.

Amendments. The 2005 amendment redesignated former (d) as present (d)(1); and added (d)(2).

The 2007 amendment inserted "in accordance with § 7-5-103(b)" in (c); and

deleted former (d)(2) and made related changes.

Cross References. Consolidation and annexation of school districts, § 6-13-1401 et seq.

Taxation for school districts formed by consolidation, annexation, or merger, § 26-80-111.

RESEARCH REFERENCES

U. Ark. Little Rock L. Rev. Survey of assembly, Education Law, 24 U. Ark. Little Rock L. Rev. 453.

CHAPTER 15

EDUCATIONAL STANDARDS AND QUALITY
GENERALLY

SUBCHAPTER.

1. GENERAL PROVISIONS.
2. QUALITY EDUCATION ACT OF 2003.
3. EFFECTIVE SCHOOL PROJECT ACT. [REPEALED.]
4. ARKANSAS COMPREHENSIVE TESTING, ASSESSMENT, AND ACCOUNTABILITY PROGRAM.
5. HOME SCHOOLS.
6. RECOGNITION OF EXCELLENCE. [REPEALED.]
7. OPPORTUNITY PARTNERSHIP PROGRAM. [REPEALED.]
8. ACCOUNTABILITY SECTION.
9. UNIFORM GRADING SCALE FOR PUBLIC SCHOOLS.
10. ARKANSAS PUBLIC EDUCATION ACT.
11. ATTACHING SEALS TO HIGH SCHOOL TRANSCRIPTS AND DIPLOMAS.
12. EDUCATIONAL STANDARDS COMMISSION.
13. SAFE SCHOOLS COMMITTEE.
14. SCHOOL PERFORMANCE REPORT ACT.
15. COMPREHENSIVE PLAN FOR CONSISTENCY AND RIGOR IN COURSE WORK.
16. COMMITTEE ON CLOSING THE ACHIEVEMENT GAP IN ARKANSAS.
17. PARENTAL INVOLVEMENT PLAN.
18. ARKANSAS PYGMALION COMMISSION ON NONTRADITIONAL EDUCATION.
19. DELTA STUDENT ACADEMIC SUCCESS PLAN.
20. PUBLIC SCHOOL STUDENT PROGRESSION.
21. SCHOOL RATING SYSTEM.
22. SCHOOL IMPROVEMENT AND EDUCATION ACCOUNTABILITY.
23. BEST FINANCIAL MANAGEMENT PRACTICES FOR SCHOOL DISTRICTS.
24. POSTSECONDARY FEEDBACK.
25. EDUCATION RENEWAL ZONES.
26. THE REWARDING EXCELLENCE IN ACHIEVEMENT PROGRAM.

Cross References. Education Service Cooperative Act, § 6-13-1001 et seq.

RESEARCH REFERENCES

A.L.R. Tort liability of public schools educational malpractice. 1 A.L.R.4th 1139.

SUBCHAPTER 1 — GENERAL PROVISIONS

SECTION.

6-15-101. Academic standards and expected outcomes.

SECTION.

6-15-102. Division of Public School Accountability.

Effective Dates. Acts 2003 (2nd Ex. Sess.), No. 90, § 5: emergency clause failed to pass. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the Arkansas Supreme Court in *Lake View School District No. 25 v. Huckabee*, 351 Ark. 31 (2002), declared the now existing system of education to be unconstitutional because it is both inequitable and inadequate; the Arkansas Supreme Court set forth the test for a constitutional system to be a system in which the state has an 'absolute duty' to provide an 'equal opportunity to an adequate education'; and that this act is immediately necessary because the Arkansas Supreme Court instructed the General Assembly to define and provide what is necessary to provide an adequate and equitable education for the children of Arkansas. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If

the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2005, No. 1672, § 4: effective July 1, 2007 by its own terms.

Acts 2005, No. 1672, § 6: July 1, 2005. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the study of staffing needs conducted pursuant to Act 64 of the Second Extraordinary Session of 2003 determined that the Department of Education is in need of reorganization; that this act would reorganize the department to help the department become more efficient and effective; and that to aid an orderly transition this act should become effective at the beginning of the next fiscal year. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2005."

6-15-101. Academic standards and expected outcomes.

By September 1, 2003, and as updates are necessary each year thereafter, the State Board of Education shall:

- (1) Define and publish academic standards and expected outcomes for students in prekindergarten through grade twelve (preK-12);
- (2) Require that the academic standards and expected outcomes be adopted by local school board of directors; and
- (3) Require that the academic standards and expected outcomes be implemented by local school districts.

History. Acts 2003, No. 1785, § 1.

Publisher's Notes. This section, concerning the Educational Planning Act, was repealed by Acts 1993, No. 475, § 1. The section was derived from Acts 1983 (Ex. Sess.), No. 4, §§ 1, 2; 1983 (Ex. Sess.), No. 7, §§ 1, 2; A.S.A. 1947, §§ 80-478, 80-479.

Former § 6-15-101, concerning the Educational Planning Act, was repealed by Acts 1993, No. 475, § 1. The section was derived from Acts 1983 (Ex. Sess.), No. 4, §§ 1, 2; 1983 (Ex. Sess.), No. 7, §§ 1, 2; A.S.A. 1947, §§ 80-478, 80-479.

RESEARCH REFERENCES

U. Ark. Little Rock L. Rev. Survey of Legislation, 2003 Arkansas General As-

sembly, Education Law, Academic Standards, 26 U. Ark. Little Rock L. Rev. 385.

6-15-102. Division of Public School Accountability.

(a)(1) To enhance the public's access to public school performance indicators and to better measure the benefits of the increasing public investment in Arkansas's schools, the General Assembly finds that a Division of Public School Accountability of the Department of Education should be established under the direct operational control of the Commissioner of Education.

(2) The foremost obligation of the division shall be to administer all monitoring and compliance activities dealing with academic and fiscal accountability for each school or school district and to report academic progress.

(b) There is created the Division of Public School Accountability of the Department of Education.

(c) The division shall be under the supervision of the commissioner.

(d)(1)(A) The commissioner shall select an individual to serve as the assistant commissioner of the division, and the assistant commissioner shall serve at the pleasure of the commissioner.

(B) The commissioner may reassign as necessary appropriate staff for the division sufficient to fulfill all obligations for monitoring and reporting in the division.

(2) The person selected as the assistant commissioner shall:

(A) Be a person of good moral character and qualified technically and by experience to direct the work of the division;

(B) Hold a master's degree or a higher level degree from an accredited institution; and

(C) Have ten (10) years of experience in an administrative, supervisory, or management position.

(3) No person who is related within the fourth degree of consanguinity or affinity to any member of the State Board of Education or to the commissioner shall be eligible to serve as the assistant commissioner.

(e) With guidance and approval from the commissioner, the assistant commissioner shall be responsible for hiring all employees of the division.

(f) The division shall have the following responsibilities:

(1) To monitor schools for compliance with:

(A) State and federal regulations;

(B) Legislative acts and court-ordered mandates;

(C) All standards of learning and accreditation as established by the state board; and

(D) All rules and regulations as established by the state board;

(2) To coordinate the analysis, dissemination, and reporting of all augmented, criterion-referenced, or norm-referenced assessment information;

(3) To coordinate the implementation and administration of:

(A) Longitudinal tracking and trend data collection as established by the state board for the purposes of improving student and school performance, ensuring mastery of the curriculum, and providing

comparisons between students within Arkansas and with students in other states;

(B) Value-added assessments as established by the state board; and

(C) The annual school performance reports as established by the state board;

(4) To administer all monitoring and compliance activities dealing with academic and fiscal accountability as established by the state board; and

(5) To work with program approval and certification sections of the Department of Education, the Department of Higher Education, the Department of Workforce Education, and the individual colleges to provide information that will contribute to reasonable, equitable, and excellent preparation of certified personnel in public and private institutions of higher education.

(g)(1) The division shall provide annual reports of school performance or compliance to the Joint Interim Oversight Committee on Education Reform, the House Interim Committee on Education, and the Senate Interim Committee on Education.

(2) A preliminary report shall be provided by January 1 of each year, and a follow-up report that includes information regarding on-site visits shall be filed by June 1 of each year.

(h)(1) There is created the Arkansas Public Schools Accountability Advisory Council, which shall begin operation within one hundred twenty (120) calendar days following June 3, 2004.

(2) The membership of the council shall include:

(A) One (1) member designated as chair to be selected by the Governor, who shall be a representative of Arkansas businesses;

(B) One (1) member selected by the Governor, who shall be a representative of an educators' union in the State of Arkansas;

(C) One (1) member selected by the Governor, who shall be a parent or guardian of at least one (1) student currently enrolled in grades kindergarten through twelve (K-12) in a public school in the State of Arkansas;

(D) One (1) member selected by the Speaker of the House of Representatives, who shall be a representative of higher education;

(E) One (1) member appointed by the President Pro Tempore of the Senate, who shall be a representative of Arkansas businesses;

(F) One (1) member appointed by the Chair of the Senate Committee on Education, who is currently employed as a teacher in grades kindergarten through twelve (K-12) in a public school system in the State of Arkansas; and

(G) One (1) member appointed by the Chair of the House Committee on Education, who shall be a representative of the administration of a public school in the State of Arkansas.

(3) The council shall provide advice and consultation services for the assistant commissioner.

(4) The council may be convened by the chair of the council, by the chair of the state board, or by the assistant commissioner.

(5) Members shall not receive compensation for service on the council but may receive expense reimbursement as provided in § 25-16-902.

History. Acts 2003 (2nd Ex. Sess.), No. 90, § 1; 2005, No. 1672, § 4; 2007, No. 1573, §§ 2, 68.

A.C.R.C. Notes. Acts 2003 (2nd Ex. Sess.), No. 90, § 3, provided: "Realignment of the Department of Education.

(a)(1) Following the implementation of this act, the Department of Education shall realign.

"(2) The purpose of the realignment shall be for the department and the Division of Public School Accountability and the Division of Public School Academic Facilities to maximize their role as the active senior partners with the schools and to prepare to intervene immediately rather than after the school or school district fails.

"(3)(A) To realign, the department shall form a taskforce consisting of the Director of the Division of Public School Accountability, the Director of the Division of Public School Academic Facilities, key department personnel, school district personnel, teachers, and other stakeholders to conduct a study of the department's and the divisions' delivery system and to make recommendations for the department's realignment.

"(B) As part of the study, the taskforce shall:

"(i) Review the functions, and responsibilities of the department, the Division of Public School Accountability, and the Division of Public School Academic Facilities to align the personnel according to these functions and responsibilities to ensure each employee is qualified and capable of performing his or her duties according to the functions and responsibilities as defined by the taskforce; and

"(ii)(a) Conduct a comprehensive review of the salaries of individuals necessary to fulfill the department's functions as defined by the taskforce, responsibilities, and constitutional mission of the state.

"(b) This study shall include a review of equity adjustments necessary to recognize differences in responsibility, performance, or seniority.

"(C) Qualifications and salary levels of the department's staff shall be compa-

rable to those of similar employees in school districts or in other state education agencies.

"(b) Following the work of the taskforce under this section, the department shall present proposed changes in staff grades and salaries to the Joint Budget Committee at the earliest opportunity for the purpose of preparing suggested legislation to be approved by the General Assembly.

"(c) The Director of the Department of Education may transfer any unclassified position to the Division of Public School Accountability or the Division of Public School Academic Facilities if the director of the division agrees that the position is an appropriate position to be in the division and approves the transfer.

"(d) The restructuring of the department shall be conducted in a manner that will provide sufficient personnel within the department to provide administrative and technological support to the Division of Public School Accountability and the Division of Public School Academic Facilities at a level that is sufficient for the divisions to carry out the duties set forth in this act.

"(e) In the restructuring of the department the director may require the department, the Division of Public School Academic Facilities, and the Division of Public School Accountability to coordinate and share certain administrative, custodial, legal, internal finance, and other necessary personnel to effectuate the daily operations of those divisions and the department."

Amendments. The 2005 amendment, effective July 1, 2007, inserted "of the Department of Education" in (a)(1) and (b); substituted "Commissioner of Education" for "State Board of Education" in (a)(1); substituted "commissioner" for "state board" twice in (c) and (d)(1); deleted "which shall begin operation within one hundred twenty (120) calendar days following June 3, 2004" from the end of (b); and inserted "or to the commissioner" in (d)(3).

The 2007 amendment rewrote (d)(1), substituted "assistant commissioner" for "director" throughout (d); and substituted

“augmented, criterion-referenced, or norm-referenced assessment information” for “criterion-referenced and norm-referenced testing information” in (f)(2).

Effective Dates. Acts 2005, No. 1672, § 4: amendments effective July 1, 2007, by its own terms.

SUBCHAPTER 2 — QUALITY EDUCATION ACT OF 2003

SECTION.

- 6-15-201. Title.
- 6-15-202. Accreditation — Development of regulations and standards.
- 6-15-203. Notification of failure to meet standards for accreditation — Appeal.
- 6-15-204. [Repealed.]
- 6-15-205. [Repealed.]
- 6-15-206. Subsequent failure to meet standards for accreditation.

SECTION.

- 6-15-207. Enforcement of standards.
- 6-15-208. Publication and dissemination.
- 6-15-209. Rules and regulations.
- 6-15-210. [Repealed.]
- 6-15-211. [Repealed.]
- 6-15-212. [Repealed.]
- 6-15-213. Course considered as taught under certain circumstances.
- 6-15-214. Advanced placement course counted as core curriculum course taught.

Cross References. Education of inmates, § 12-29-301 et seq.

Effective Dates. Acts 1983, No. 445, § 14: Mar. 14, 1983. Emergency clause provided: “It is hereby found and determined by the General Assembly that the establishment of minimum and up-to-date standards for accreditation of public elementary and secondary schools is necessary to improve the quality of education in this State, and that the immediate passage of this Act is necessary to enable the State Board of Education to establish a committee to assist the Board in promulgating such minimum standards for accreditation to be effective within the time schedule provided in this Act. Therefore, an emergency is hereby declared to exist, and this Act being immediately necessary for the preservation of the public peace, health, and safety shall be in full force and effect from and after its passage and approval.”

Acts 1987, No. 855, § 2: Apr. 13, 1987. Emergency clause provided: “It is hereby found and determined by the General Assembly that clarification of the provisions of subsection (c) of Section 9 of Act 445 of 1983, as amended, is necessary to assure that county boards of education who receive petitions for annexation of a school district to an adjoining school district give first consideration to annexing the territory of such school district to one or more

school districts located within the county in which such school district is administered, but to enable the county board of education of such county to annex a territory of the district to one or more school districts located in an adjoining county if there is no qualified adjoining school district located within the county; and that the immediate passage of this Act is necessary to clarify said Act before the minimum standards of the Quality Education Act of 1983 become operative on June 1, 1987. Therefore, an emergency is hereby declared to exist, and this Act being immediately necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval.”

Acts 1987 (1st Ex. Sess.), No. 3, § 4: June 12, 1987. Emergency clause provided: “It is hereby found and determined by the General Assembly that under present law no consolidation allowance can be made for consolidations or annexations occurring after May 30, 1987; that such date should be changed to June 30, 1987; that this Act makes such change; and that since May 30, 1987 has already passed, this Act should be given immediate effect. Therefore, an emergency is hereby declared to exist and this Act being immediately necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval.”

Acts 1997, No. 112, § 40: Feb. 7, 1997. Emergency clause provided: "It is hereby found and determined by the General Assembly that Act 10 of the First Extraordinary Session of 1995 abolished the Joint Interim Committee on Education and in its place established the House Interim Committee and Senate Interim Committee on Education; that various sections of the Arkansas Code refer to the Joint Interim Committee on Education and should be corrected to refer to the House and Senate Interim Committees on Education; that this act so provides; and that this act should go into effect immediately in order to make the laws compatible as soon as possible. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 1999, No. 1078, § 92: effective July 1, 2000.

Acts 2003, No. 1467, § 23: July 16, 2003. Effective date clause failed to pass. Effective date clause provided: "Unless otherwise provided in this act, this act shall become effective on July 1, 2003."

Acts 2007, No. 1015, § 2: Apr. 3, 2007. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that a rigorous curriculum is essential for the improvement of public school student achievement in Arkansas; that efficient and consistent enforcement of the Standards of Accreditation are vital to the public education system; that public school districts should have some efficient method of teaching Advanced Placement courses as part of the accredited curriculum; that this act provides the flexibility needed to ensure that a rigorous curriculum is efficiently delivered to all public school students. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

RESEARCH REFERENCES

U. Ark. Little Rock L.J. Legislative Survey, Education, 8 U. Ark. Little Rock L.J. 569.

CASE NOTES

Purpose.

The primary goal of the Quality Education Act is the elimination of all public elementary and secondary schools that fall below the minimum standards for accreditation as set forth by the State

Board of Education. *Loyd v. Knight*, 288 Ark. 474, 706 S.W.2d 393 (1986).

Cited: *Electors of Etowah Sch. Dist. v. Mississippi County Bd. of Educ.*, 292 Ark. 472, 731 S.W.2d 187 (1987).

6-15-201. Title.

This subchapter shall be known as and may be cited as "The Quality Education Act of 2003".

History. Acts 1983, No. 445, § 1; A.S.A. 1947, § 80-4601; Acts 2003, No. 1467, § 1. inserted “and may be cited as” and substituted “2003” for “1983.”
Amendments. The 2003 amendment

RESEARCH REFERENCES

U. Ark. Little Rock L. Rev. Survey of Legislation, 2003 Arkansas General Assembly, Education Law, Academic Standards, 26 U. Ark. Little Rock L. Rev. 385.

CASE NOTES

Cited: Allred v. Arkansas Dep’t of Cor. Sch. Dist., 322 Ark. 772, 912 S.W.2d 4 (1995).

6-15-202. Accreditation — Development of regulations and standards.

(a)(1) The State Board of Education is authorized and directed to develop comprehensive regulations, criteria, and standards to be used by the state board and the Department of Education in the accreditation of school programs in elementary and secondary public schools in this state.

(2) In its regulations, criteria, and standards promulgated under this subchapter, the state board shall include a provision regarding the attainment of unitary status for school districts that have not been released from court supervision over desegregation obligations.

(b)(1) All public schools and school districts shall meet the Standards for Accreditation of Arkansas Public Schools and School Districts that shall be adopted by the state board.

(2) Upon a showing of just cause, the state board may grant a waiver of any standard for accreditation for a time period of no longer than one (1) school year, except that no curriculum, student performance, school performance, or any standard required by law may be waived for any time period.

(3) A school district is deemed to have failed to meet the standards if on any standard applicable to the general operation of a school district as defined by the state board the school district receives a probationary status.

(4) A school is deemed to have failed to meet the standards if on any standard applicable to the specific operation of that school as defined by the state board the school receives a probationary status.

(c) The state board shall promulgate rules and regulations setting forth:

(1) The process for identifying schools and school districts that fail to meet the standards;

(2) Enforcement measures the state board may apply to bring a school or school district into compliance with the standards, including, but not limited to, annexation, consolidation, or reconstitution of the school district in accordance with § 6-13-1401 et seq. and this subchapter; and

(3) The appeal process available to a school district under this subchapter.

(d) After the regulations are adopted and implemented by the state board, standards and procedures shall regularly be reviewed by the House Interim Committee on Education and the Senate Interim Committee on Education at least one (1) time every two (2) years, and recommendations and advice may be filed by the committees with the state board for its consideration.

(e)(1) The department shall conduct an on-campus Standards for Accreditation of Arkansas Public Schools and School Districts review for each school district in the state no less than one (1) time every four (4) years.

(2) The department may visit any school campus for an on-campus Standards for Accreditation of Arkansas Public Schools and School Districts review at other additional times as determined necessary by the Commissioner of Education or the state board.

(f) The commissioner may require that the superintendent of each school district file a written statement with the department as evidence that the school district for which the superintendent is responsible has complied with any or all of the following statutory requirements:

- (1) § 6-10-111 (d)-(f) concerning the Equity Assistance Center;
- (2) § 6-11-129(a)(1)(C)(ii) concerning data to be accessible on the department's website;
- (3) § 6-13-109 concerning employment of a school superintendent;
- (4) § 6-13-620 concerning powers and duties of the local school board of directors;
- (5) § 6-13-801 et seq. concerning educational compacts;
- (6) § 6-15-202(b)(1) concerning accreditation;
- (7) § 6-15-401 et seq. concerning the Arkansas Comprehensive Testing, Assessment, and Accountability Program;
- (8) § 6-15-502 concerning home schools;
- (9) § 6-15-902 concerning grading scale;
- (10) § 6-15-1004 concerning qualified teachers;
- (11) § 6-15-1101(b) concerning diplomas;
- (12) § 6-15-1402 concerning the school performance report;
- (13) § 6-15-1603 concerning closing the achievement gap;
- (14) § 6-15-1701 et seq. concerning a parental involvement plan;
- (15) § 6-15-2006 concerning remedial instruction;
- (16) § 6-16-102 concerning school day;
- (17) § 6-16-103 concerning course of study generally;
- (18) § 6-16-124 concerning Arkansas history;
- (19) § 6-16-126 concerning food handling safety;
- (20) § 6-16-130 concerning visual art and music;
- (21) § 6-16-132 concerning physical education;
- (22) § 6-16-1002 concerning health education;
- (23) § 6-16-1003 concerning oral health standards;
- (24) § 6-16-1201 et seq. concerning advanced placement and concurrent enrollment;

- (25) § 6-17-102 concerning emergency first aid personnel;
- (26) § 6-17-201 concerning personnel policies;
- (27) § 6-17-309 concerning certification;
- (28) § 6-17-401 et seq. concerning teacher's license requirement;
- (29) § 6-17-2301 concerning establishment of personnel policies;
- (30) § 6-17-2402 concerning teacher compensation;
- (31) § 6-18-101 concerning qualifications for valedictorian and salutatorian;
- (32) § 6-18-201 et seq. concerning compulsory attendance;
- (33) § 6-18-202 concerning age and residence for attending public schools;
- (34) § 6-18-207 concerning minimum age for enrollment in public school;
- (35) § 6-18-211 concerning attendance for students in grades nine through twelve (9-12);
- (36) § 6-18-213 concerning attendance records and reports generally;
- (37) § 6-18-223 concerning credit for college courses;
- (38) § 6-18-501 et seq. concerning guidelines for development of school district student discipline policies and written student discipline policies;
- (39) § 6-18-508 concerning alternative learning environments;
- (40) § 6-18-509 concerning assessment and intervention in alternative learning environments;
- (41) § 6-18-701 et seq. concerning physical examinations;
- (42) § 6-18-1005 concerning a student services program;
- (43) § 6-19-101 concerning transportation;
- (44) § 6-20-2202 concerning the budget and expenditure report;
- (45) § 6-21-106 concerning fire hazards inspection prior to closing for breaks;
- (46) § 6-21-112 concerning school facilities;
- (47) § 6-25-101 et seq. concerning the public school library media and technology;
- (48) § 6-41-101 et seq. concerning services to children with disabilities in nonpublic schools;
- (49) § 6-42-101 concerning gifted and talented; and
- (50) Any other statutory mandate for school districts identified by the department as relevant to the Standards for Accreditation of Arkansas Public Schools and School Districts.

(g) In addition to any written statement of assurance required under subsection (f) of this section, the department may conduct an on-site review of a school district to confirm that a school district has complied with any statutory requirements listed in subsection (f) of this section or any other matter related to the standards.

(h) The department shall establish a form for the written statement of assurance required under subsection (f) of this section and shall establish a date or dates by which school districts shall submit the written statement of assurance required under subsection (f) of this section.

(i) If any superintendent fails to file a written statement of assurance as required by the commissioner under subsection (f) of this section by the date established by the department or knowingly submits false information or if the department determines the information in the statement is inaccurate or incomplete, the department may:

- (1) Conduct a random on-site visit;
- (2) Request additional information from the school district;
- (3) Take licensure action on the license of the superintendent under the procedure of § 6-17-410; or
- (4) Find the school or school district in citation or probationary violation of the Standards for Accreditation of Arkansas Public Schools and School Districts.

History. Acts 1983, No. 445, § 4; A.S.A. 1947, § 80-4604; Acts 1997, No. 112, § 3; 2003, No. 1467, § 2; 2005, No. 1684, § 1; 2005, No. 2131, § 26; 2007, No. 54, § 2; 2007, No. 829, § 2.

A.C.R.C. Notes. Acts 2007, No. 829, § 1, provided:

“Findings.

“It is found and determined by the General Assembly that:

“(1) The school districts in Pulaski County entered into a settlement agreement and desegregation plans in 1989 with the intent to fulfill a ‘promise for achieving unitary school systems which are free from the vestiges of racial discrimination’;

“(2) The State of Arkansas has paid the districts in excess of approximately seven hundred million dollars (\$700,000,000) to assist the districts in fulfilling their promise to achieve unitary schools free from the vestiges of racial discrimination;

“(3) The Little Rock School District has recently been declared unitary and has been released from federal court supervision, but the Pulaski County Special School District and the North Little Rock School District have yet to attain a ruling that they have fulfilled their promise to their students to achieve unitary school systems;

“(4) These school districts believe they are unitary or have achieved a unitary status in some respect, and have stated so publicly in legislative committee meetings;

“(5) The General Assembly finds that without any ruling from the federal dis-

trict court that the districts have achieved unitary status, there is no assurance that the promise of schools free of the vestiges of racial discrimination has been fulfilled by these districts;

“(6) The General Assembly finds that, as a part of the state’s overall obligation to provide a general, suitable, and efficient school system, the students and parents of the Pulaski County districts deserve to know that they are being educated in a unitary school district, or if their district is not unitary in some respect the district should be making adequate progress towards being declared fully unitary;

“(7) The General Assembly seeks to assist the school districts to achieve unitary status and to fulfill their promise to provide school systems which are free from the vestiges of racial discrimination consistent with their desegregation plans; and

“(8) The General Assembly also seeks to provide some assurance to the children in the districts that the promise of unitary schools in the Pulaski County districts will be fulfilled within a reasonable amount of time.”

Amendments. The 2005 amendment by No. 1684 added (e).

The 2005 amendment by No. 2131 added (f)-(i).

The 2007 amendment by No. 54 substituted “6-11-129(a)(1)(C)(ii)” for “6-11-129(3)(b)” in (f)(2).

The 2007 amendment by No. 829 added (a)(2).

6-15-203. Notification of failure to meet standards for accreditation — Appeal.

(a) The Department of Education shall annually notify all schools or school districts failing to meet standards for accreditation for elementary and secondary schools not later than May 15 of each year of this determination.

(b)(1) In the event that a school district affected by this subchapter believes the department has improperly determined that a school or school district fails to meet the standards for accreditation, the school district shall have a right of appeal thereafter to the State Board of Education.

(2) Any appeal shall be held in an open hearing, and the decision of the state board shall be in open session.

(3) Appeals must be filed not later than May 30 following the May 15 determination of accreditation status, and the state board hearing must be held prior to August 15 of the same calendar year.

(4) The state board may confirm the classification of a local school or school district as determined by the department, or it may sustain the appeal of the school district.

(5) An aggrieved school district may appeal the ruling of the state board to Pulaski County Circuit Court pursuant to the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

History. Acts 1983, No. 445, § 6; A.S.A. 1947, § 80-4606; Acts 1993, No. 603, § 1; 2003, No. 1467, § 3.

6-15-204. [Repealed.]

Publisher's Notes. This section, concerning the initial failure to meet standards, was repealed by Acts 1999, No. 1078, § 54. The section was derived from

Acts 1983, No. 445, § 2; A.S.A. 1947, § 80-4602.

Effective Dates. Acts 1999, No. 1078, § 92: July 1, 2000.

6-15-205. [Repealed.]

Publisher's Notes. This section, concerning isolated districts, was repealed by Acts 1995, No. 917, § 15. The section was

derived from Acts 1983, No. 445, § 3; A.S.A. 1947, § 80-4603.

6-15-206. Subsequent failure to meet standards for accreditation.

(a) Any school or school district which fails to meet current standards for accreditation as determined by the Department of Education shall be classified as probationary.

(b)(1) Notice thereof shall be filed with the school district in which the school is located that the school or school district must meet all standards for accreditation within no more than two (2) consecutive school years, including the year the probationary status is declared, or

be subject to the mandates of this subchapter, including, but not limited to, possible consolidation, annexation, or reconstitution of a school district as provided under § 6-13-1401 et seq. and this subchapter.

(2) The department shall prepare and promulgate regulations and guidelines for the maximum times allowable for correction of any violations of standards, provided no probationary status violation may exist for more than two (2) consecutive school years.

(c)(1) School districts shall submit annually evidence of compliance with standards for accreditation for the school district and each school in the school district.

(2) The department shall review annually the educational standards of school districts for the purpose of determining whether standards for accreditation of the schools therein are in compliance with current state standards for accreditation.

(d) An onsite review of each school's compliance shall be made at least every two (2) years or more frequently if the department has reason to believe that the school district or any school therein has fallen below standards for accreditation.

(e) The department shall cooperate with local schools and school authorities in order to assist affected school districts and schools therein to achieve compliance with the standards for accreditation as provided in this subchapter.

History. Acts 1983, No. 445, § 5; A.S.A. 1947, § 80-4605; Acts 1989, No. 481, § 1; 1993, No. 603, § 2; 2003, No. 1467, § 4.

6-15-207. Enforcement of standards.

(a) The State Board of Education may take any number of the actions listed in subsection (c) of this section to address a school or school district failure to meet standards for accreditation any time after a school or school district has received notice of being placed on probationary status pursuant to §§ 6-15-202 and 6-15-203.

(b) The state board shall take at least one (1) of the actions listed in subsection (c) to address any school or school district which has failed to meet all standards for accreditation for two (2) consecutive school years, including the year the probationary status is declared pursuant to §§ 6-15-202 and 6-15-203, unless the state board, at its discretion, issues written findings supported by a majority of the state board that the school district could not meet current standards for the relevant time period due to impossibility caused by external forces beyond the school district's control.

(c) The state board shall be allowed to take the following actions to address any school or school district on probationary status for failing to meet the standards for accreditation:

(1) Require a school district to reorganize or reassign the administrative, instructional, or support staff of a public school;

(2) Require a school or school district to institute and fully implement a curriculum that is based on state academic content and achievement standards, including providing appropriate professional development at the cost of the school district;

(3) Remove a particular school from the jurisdiction of a school district and establish alternative public governance and supervision of the school or schools;

(4) Require a school district to close down or dissolve a particular school or schools within a school district;

(5) Annex a school district or districts or parts thereof with another receiving school district or districts pursuant to the authority of § 6-13-1401 et seq. and this subchapter;

(6) Consolidate a school district or districts or parts thereof with another school district or districts or parts thereof to form a resulting district pursuant to the authority of § 6-13-1401 et seq. and this subchapter;

(7) Reconstitute the leadership of a school district by removing permanently or suspending on a temporary basis the superintendent of the school district or any particular board members of a school district. The state board shall have the authority to appoint an administrator or to call for the election of new school board members to administer the affairs and provide governance of the school district, or both; and

(8) Take any other appropriate action allowed by law which is determined by the state board to assist and address a school or school district failure to meet the standards for accreditation.

History. Acts 2003, No. 1467, § 5.

Publisher's Notes. Former § 6-15-205, concerning the annexation and combination by petition, was repealed by Acts 1999, No. 1078, § 55. The section was derived from Acts 1983, No. 445, § 9; 1983

(Ex. Sess.), No. 61, § 1; A.S.A. 1947, § 80-4609; Acts 1987, No. 855, § 1; 1987 (1st Ex. Sess.), No. 3, § 2; 1991, No. 1033, § 1; 1993, No. 294, § 9.

Effective Dates. Acts 1999, No. 1078, § 92: July 1, 2000.

6-15-208. Publication and dissemination.

When any school of a school district or the school district is determined by the State Board of Education to be on probationary status for failure to meet the standards for accreditation, that school district after exhausting its rights to appeal shall:

(1) Publish the probationary status determination and findings of the state board to the public and the parents or caregiver of each student enrolled in the school or school district determined to have failed to meet the standards for accreditation;

(2) The public notice shall be in an understandable and uniform format; and

(3) The public notice shall be published or disseminated, immediately after the state board's determination, on the website of the school district and published at least one (1) time a week for two (2) consecutive weeks in a local newspaper of general circulation in the affected school district.

History. Acts 2003, No. 1467, § 5.

Publisher's Notes. Former § 6-15-208, concerning the annexation of an independent school district having territory in more than one county, was repealed by Acts 1993, No. 294, § 9. The section was derived from Acts 1983, No. 445, § 12; A.S.A. 1947, § 80-4612.

6-15-209. Rules and regulations.

The State Board of Education shall promulgate rules and regulations as necessary to set forth the:

(1) Process for identifying and addressing a school or school district that is failing to meet the Standards for Accreditation of Arkansas Public Schools and School Districts;

(2) Process and measures to be applied to require a school or school district to comply with the standards, including, but not limited to, possible annexation, consolidation or reconstitution of a school district under § 6-13-1401 et seq. and this subchapter;

(3) Appeals process and procedures available to a school district pursuant to this subchapter and current law; and

(4) Definitions and meaning of relevant terms governing the establishment and governance of the standards.

History. Acts 2003, No. 1467, § 5.

Publisher's Notes. Former § 6-15-209, concerning an action for dissolution involving an annexed district, was repealed by Acts 1993, No. 294, § 9. The section was derived from Acts 1983, No. 445, § 8; A.S.A. 1947, § 80-4608.

6-15-210. [Repealed.]

Publisher's Notes. This section, concerning a director to represent an annexed district, was repealed by Acts 1993, No. 294, § 9. The section was derived from Acts 1983, No. 445, § 10; A.S.A. 1947, § 80-4610.

6-15-211. [Repealed.]

Publisher's Notes. This section, concerning amount of state aid to consolidated or annexed districts, was repealed by Acts 2003, No. 1467, § 6. The section was derived from Acts 1983, No. 445, § 7; A.S.A. 1947, § 80-4607.

6-15-212. [Repealed.]

Publisher's Notes. This section, concerning sharing the assets and liabilities of an annexed district, was repealed by Acts 1993, No. 294, § 9. The section was derived from Acts 1983, No. 445, § 11; A.S.A. 1947, § 80-4611.

6-15-213. Course considered as taught under certain circumstances.

(a) If a course required to be taught by a school district under the State Board of Education's standards for accreditation has an enrollment of one (1) or more students and all students enrolled in the course leave the school district after the course has commenced but before the completion of the course in each given school year or school semester the course is to be taught and if no other students that are eligible to

take the course enroll to attend the school district campus where the course is required to be taught, the course shall be considered as taught by the school district in compliance with the standards for accreditation under the following conditions:

(1) The school district superintendent certifies in writing that no student eligible to take the required course enrolled to attend the school district campus where the course was required to be taught after the initial student or students left the school district;

(2) The school district provides written proof, as required by the Department of Education, that the school district had the course scheduled to be taught on the school district's master course schedule during the entire time the course was required to be taught;

(3) The school district provides written proof, as required by the department, that the school district had a properly certified teacher employed and able to teach the required course during the entire time the course was required to be taught and the course was listed on the school district's master course schedule;

(4) The department, upon review of proper records of the school district and information certified by the school district superintendent, confirms that the school district satisfied the requirements of subdivisions (a)(1)-(3) of this section and verifies that the information submitted pursuant to subdivisions (a)(1)-(3) of this section is correct; and

(5)(A) At the end of the school semester in which the course was required to be taught, the school district petitions the state board, in writing, for a waiver of the standards for accreditation requirement that the particular course be taught for that school semester.

(B)(i) The superintendent and the school board president of the school district seeking the waiver shall appear before the state board to present their request for a waiver.

(ii) Representatives of the department shall appear before the state board to confirm and verify the information required to be filed with the department under this section.

(b)(1) Upon satisfaction of the requirements of subsection (a) of this section, the state board shall waive the requirement that the course be taught on a semester basis.

(2) The state board shall waive the requirement for only the semester in which the student or students left the school district.

History. Acts 2007, No. 219, § 1.

6-15-214. Advanced placement course counted as core curriculum course taught.

(a) The purpose of this section is to assist small, rural public schools in providing students access to the most rigorous courses available if it is the desire of students to take advanced placement courses in the place of regular courses and, in doing so, to meet the requirements of the Standards for Accreditation of Arkansas Public Schools and School Districts.

(b) The Department of Education acknowledges that the rigor and level of difficulty of advanced placement courses exceed the requirements of regular courses. Such rigor and level of difficulty are validated through the required advanced placement audit and advanced placement examinations.

(c) The State Board of Education shall consider an advanced placement course as being taught for one (1) of the required courses under the Standards for Accreditation of Arkansas Public Schools and School Districts if:

(1) The public school district has a qualified teacher for the required course;

(2) No students enrolled in the required course;

(3) An advanced placement course in the same subject area as the required course has students enrolled in the advanced placement course;

(4) The public school district teaches all other courses required by the standards for accreditation; and

(5)(A) The public school district teaches the required course to any student who enrolls in the public school district after the school year begins.

(B) The public school district may teach the required course to a new student:

(i) In a traditional classroom setting;

(ii) Through distance learning with a qualified teacher; or

(iii) By modifying the advanced placement course on an individual level to accommodate the new student.

(d)(1) The public school district shall notify the department after registration in the spring prior to the beginning of the new school year and immediately after the school year begins if no students enrolled in the required course and the public school district will seek to meet the standards for accreditation using the advanced placement course.

(2) Upon receiving the public school district notification and after spring registration, the department shall permit the public school district to meet the standards for accreditation by teaching the advanced placement course in place of the required course.

(e) If a new student enrolls in the required course, the public school district shall immediately notify the department.

(f) The department shall establish procedures to ensure that no student is coerced into taking an advanced placement course for the purpose of meeting the standards for accreditation.

History. Acts 2007, No. 1015, § 1.

SUBCHAPTER 3 — EFFECTIVE SCHOOL PROJECT ACT

SECTION.

6-15-301 — 6-15-305. [Repealed.]

6-15-301 — 6-15-305. [Repealed.]

Publisher's Notes. This subchapter was repealed by Acts 1999, No. 100, § 5. The subchapter was derived from the following sources:

- 6-15-301. Acts 1983 (Ex. Sess.), No. 49, § 1; A.S.A. 1947, § 80-4621.
- 6-15-302. Acts 1983 (Ex. Sess.), No. 49, § 2; A.S.A. 1947, § 80-4622.

6-15-303. Acts 1983 (Ex. Sess.), No. 49, § 3; A.S.A. 1947, § 80-4623.

6-15-304. Acts 1983 (Ex. Sess.), No. 49, § 4; A.S.A. 1947, § 80-4624.

6-15-305. Acts 1983 (Ex. Sess.), No. 49, § 5; A.S.A. 1947, § 80-4625.

SUBCHAPTER 4 — ARKANSAS COMPREHENSIVE TESTING, ASSESSMENT, AND ACCOUNTABILITY PROGRAM

SECTION.

- 6-15-401. Title.
- 6-15-402. Purpose.
- 6-15-403. Authority of State Board of Education.
- 6-15-404. Program implementation.
- 6-15-405. [Repealed.]
- 6-15-406. Assessment of basic skills.
- 6-15-407. Basic competency tests generally.
- 6-15-408 — 6-15-413. [Repealed.]
- 6-15-414. Testing additional grade levels.
- 6-15-415. Public availability of test instruments and scores.
- 6-15-416 — 6-15-418. [Repealed.]
- 6-15-419. Definitions.
- 6-15-420. Remediation and intervention.
- 6-15-421. Awards and sanctions.
- 6-15-422. Comprehensive Testing, Assessment, and Accountability Program progress report.
- 6-15-423. [Repealed.]
- 6-15-424. Rules and regulations.
- 6-15-425. School improvement or academic distress.

SECTION.

- 6-15-426. School improvement.
- 6-15-427. School district testing programs.
- 6-15-428. Academic distress identification, notification, classification, and appeal.
- 6-15-429. Academic distress — Required action.
- 6-15-430. State Board of Education authority over school in academic distress.
- 6-15-431. Academic distress rules and regulations.
- 6-15-432. Unsafe school choice program.
- 6-15-433. Statewide assessment program.
- 6-15-434. School testing programs.
- 6-15-435. Required analyses.
- 6-15-436. Local assessments.
- 6-15-437. Rules.
- 6-15-438. Test security and confidentiality.
- 6-15-439. Reporting of assessment scores.
- 6-15-440. Arkansas Leadership Academy School Support Program.

A.C.R.C. Notes. References to “this subchapter” in §§ 6-15-401 — 6-15-415 may not apply to §§ 6-15-419 — 6-15-422, and 6-15-439, which were enacted subsequently.

Cross References. Students generally, § 6-18-101 et seq.

Effective Dates. Acts 1994 (2nd Ex. Sess.), No. 47, § 5; Aug. 25, 1994. Emergency clause provided: “It is hereby found and determined by the Seventy Ninth General Assembly, meeting in Second Extraordinary Session, that it is necessary to

establish a pilot program to determine whether a GED test is an appropriate alternative to the outcome-based assessment test that Ark. Code Ann. § 6-15-407 currently requires, beginning with the 1996-97 school year, for all students to successfully complete in order to receive a high school diploma and that the immediate passage of this Act is necessary to establish such a pilot program and evaluate its results. Therefore, an emergency is hereby declared to exist, and this Act being immediately necessary for the pres-

ervation of the public peace, health, and safety shall be in full force and effect from and after its passage and approval."

Acts 1999, No. 999, § 16: Mar. 31, 1999. Emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly that the immediate effectiveness of this act is essential to the continuity of public school student assessments, which begin with an early fall testing cycle, and to the efficient operation of the Department of Education and the public schools of this state in making plans for the fall 1999 testing cycle, and that any delay could work irreparable harm to the department, to the local school districts, and to the students. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 2003, No. 1467, § 23: July 16, 2003. Effective date clause failed to pass. Effective date clause provided: "Unless otherwise provided in this act, this act shall become effective on July 1, 2003."

Acts 2003 (2nd Ex. Sess.), No. 35, § 13: July 1, 2004. Effective date clause provided: "Unless otherwise provided herein, this subchapter shall become effective on July 1, 2004."

Acts 2003 (2nd Ex. Sess.), No. 35, § 14: Jan. 14, 2004. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the Arkansas Supreme Court in *Lake View School District No. 25 v. Huckabee*, 351 Ark. 31 (2002) has declared the now current system of education to be unconstitutional because it is both inequitable and inadequate; that the Arkansas Supreme Court has set forth the test for a constitutional system to be one in which the state has an 'absolute duty' to provide and 'equal opportunity to an adequate education'; that the Arkansas Supreme Court has instructed the General Assembly to define and provide what is necessary to provide an adequate and eq-

uitable education for the children of Arkansas. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2005, No. 2253, § 2: Apr. 13, 2005. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the results of state mandated assessments will soon be available to students, parents and school districts; that to provide the most accurate information the results need to be made available to the school district where the child resides. This act is immediately necessary so that the Department of Education may provide the assessment to the appropriate school district. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2007, No. 807, § 3: Apr. 2, 2007. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that in order to ensure an adequate education for all Arkansas public school students, public schools or school districts should be required to file detailed school improvement plans with the Department of Education, and the Department of Education should monitor compliance with those plans; and that this act is immediately necessary because the determination of educational strategies and the use of public funds to develop and implement school improvement plans depends on early planning by public school districts; that if these plans are not developed by the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed

by the Governor and the veto is overridden, the date the last house overrides the veto.”

6-15-401. Title.

This subchapter shall be known as and may be cited as the “Arkansas Comprehensive Testing, Assessment, and Accountability Program Act”.

History. Acts 1983 (Ex. Sess.), No. 54, § 1; 1983 (Ex. Sess.), No. 89, § 1; A.S.A. 1947, § 80-5801; Acts 1993, No. 846, § 1; 1997, No. 1172, § 1; 1999, No. 999, § 1; 2003, No. 1467, § 7.

RESEARCH REFERENCES

U. Ark. Little Rock L. Rev. Survey of Legislation, 2003 Arkansas General Assembly, Education Law, Academic Standards, 26 U. Ark. Little Rock L. Rev. 385.

6-15-402. Purpose.

- (a)(1)(A) The purpose of this subchapter is to provide the statutory framework necessary to ensure that all students in the public schools of this state have an equal opportunity to demonstrate grade-level academic proficiency through the application of knowledge and skills in core academic subjects consistent with state curriculum frameworks, performance standards, and assessments.
- (B)(i) The State of Arkansas recognizes and declares that students who are not performing at grade-level standards of academic proficiency are especially harmed by social promotion because they are not equipped with the necessary academic skills to be successful and productive members of society.
- (ii) For this reason, the Arkansas Comprehensive Testing, Assessment, and Accountability Program will emphasize point-in-time intervention and remediation upon the discovery that any student is not performing at grade level.
- (C) The state is committed to all students having the opportunity to perform at their age-appropriate grade level and beyond.
- (2) This subchapter is constructed around a system that includes statewide indicators, individual school improvement indicators, and a locally generated school accountability narrative. The total program shall be applied to each school in the state public school system.
- (3) This subchapter is designed to be a multiyear commitment to assess the academic progress and performance of Arkansas’s public school students, classrooms, schools, and school districts.
- (4)(A) It shall also be the purpose of this subchapter to:
- (i) Provide information needed to improve the public schools by measuring annual learning gains of all students through longitudinal tracking and analysis of value-added computations of student gains

against a national cohort to inform parents of the educational progress of their public school children; and

(ii) Inform the public of the performance of schools.

(B) The program shall be designed to:

(i) Assess the annual learning gains of each student toward achieving the academic content standards appropriate for the student's grade level;

(ii) Provide data for building effective staff development programs and school accountability and recognition;

(iii) Identify the educational strengths and weaknesses of students and help the teacher tailor instruction to the needs of the individual student;

(iv) Assess how well academic goals and performance standards are met at the classroom, school, school district, and state levels;

(v) Provide information to aid in the evaluation and development of educational programs and policies;

(vi) Provide information on the performance of Arkansas students compared with other students from across the United States; and

(vii) Identify best practices and schools that are in need of improving their practices.

(b) The purposes of the assessment and accountability program developed under this subchapter shall be to:

(1) Improve student learning and classroom instruction;

(2) Provide public accountability by:

(A) Mandating expected achievement levels;

(B) Reporting on school and school district performance; and

(C) Applying a framework for state action for a school or school district that fails expected achievement levels as defined in the Arkansas Comprehensive Testing, Assessment, and Accountability program rules and regulations; and

(3) Provide evaluation data of school and school district performance in order to assist policymakers at all levels in decision making.

(c) The priorities of the assessment and accountability program developed pursuant to the provisions of this subchapter shall include:

(1) All students to have an opportunity to demonstrate increased learning and completion at all levels, to graduate from high school, and to enter postsecondary education or the workforce without remediation;

(2) Students to demonstrate that they meet the expected academic standards consistently at all levels of their education;

(3) Academic standards for every level of the grades kindergarten through twelve (K-12) education system to be aligned and education financial resources to be aligned with student performance expectations at each level of the grades kindergarten through twelve (K-12) education system; and

(4) The quality of educational leadership at all levels of grades kindergarten through twelve (K-12) education to be improved.

History. Acts 1983 (Ex. Sess.), No. 54, 1997, No. 1172, § 2; 1999, No. 999, § 2; § 2; 1983 (Ex. Sess.), No. 89, § 2; A.S.A. 2003, No. 1467, § 8; 2003 (2nd Ex. Sess.), 1947, § 80-5802; Acts 1993, No. 846, § 2; No. 35, § 3.

6-15-403. Authority of State Board of Education.

The State Board of Education through the Department of Education shall:

(1) Develop a single comprehensive testing, assessment, and accountability program which utilizes the most current and effective testing, evaluation, and assessment research information designed to achieve the following purposes set forth in this subchapter:

(A) Set clear academic standards that are periodically reviewed and revised;

(B) Establish professional development;

(C) Establish expected achievement levels;

(D) Report on student achievement and other indicators;

(E) Provide evaluation data;

(F) Recognize academic excellence and failure;

(G) Apply awards and sanctions; and

(H) Comply with current federal and state law and state board rules and regulations;

(2) Promulgate rules and regulations as may be necessary to develop and implement the comprehensive testing, assessment, and accountability program;

(3) Employ staff and enter into contracts as may be necessary to carry out the provisions of this subchapter;

(4) Classify school services, designate the licensure subject areas, establish competencies, including the use of technology to enhance student learning, and licensure requirements for all school-based personnel, and prescribe rules in accordance with initial, standard, and provisional licenses;

(5) Identify critical teacher shortage areas; and

(6) Collect and maintain the management information databases for all components of the public kindergarten through grade twelve (K-12) education system.

History. Acts 1983 (Ex. Sess.), No. 54, 1997, No. 1172, § 3; 1999, No. 999, § 4; § 3; 1983 (Ex. Sess.), No. 89, § 3; A.S.A. 2003, No. 1467, § 9. 1947, § 80-5803; Acts 1993, No. 846, § 3;

6-15-404. Program implementation.

(a)(1) The State Board of Education shall establish clear, specific, and challenging academic content standards which define what students shall know and be able to do in each content area.

(2) Instruction in all public schools shall be based on these academic content standards.

(b) The state board shall establish a schedule for periodic review and revision of academic content standards to ensure that Arkansas aca-

ademic content standards are rigorous and equip students to compete in the global workforce.

(c) The state board shall include the following elements in the periodic review and revision of Arkansas academic content standards:

- (1) External review by outside content standards experts;
- (2) Review and input by higher education, workforce education, and community members;
- (3) Study and consideration of academic content standards from across the nation and the international level as appropriate;
- (4) Study and consideration of evaluation from national groups or organizations as appropriate;
- (5) Revisions by committees of Arkansas teachers and instructional supervisor personnel from public schools, assisted by teachers from institutions of higher education; and
- (6) Public dissemination of revised academic content standards at the state board meeting and Department of Education website.

(d) The state board shall establish a clear, concise system of reporting the academic performance of each school on the state-mandated augmented, criterion-referenced, or norm-referenced assessments that conforms with the requirements of the No Child Left Behind Act of 2001.

(e)(1) The state board shall develop and the department shall implement a developmentally appropriate uniform school readiness screening to validate a child's school readiness as part of a comprehensive evaluation design.

(2) Beginning with the 2004-2005 school year, the department shall require that all school districts administer the uniform school readiness screening to each kindergarten student in the school district school system upon the student's entry into kindergarten.

(3) Children who enter public school for the first time in first grade must be administered the uniform school readiness screening developed for use in the first grade.

(f)(1) The department shall select a developmentally appropriate assessment to be administered to all students in first grade and second grade in reading and mathematics.

(2) Professional development activities shall be tied to the comprehensive school improvement plan and designed to increase student learning and achievement.

(3) Longitudinal and trend data collection shall be maintained for the purposes of improving student and school performance.

(4) A public school or public school district classified as in "school improvement" shall develop and file with the department a comprehensive school improvement plan designed to ensure that all students demonstrate proficiency on all portions of state-mandated augmented, criterion-referenced, or norm-referenced assessments. The comprehensive school improvement plan shall include strategies to address the achievement gap existing for any identifiable group or subgroup as identified in the Arkansas Comprehensive Testing, Assessment, and

Accountability Program and the gap of that subgroup from the academic standard.

(g) The department shall develop and implement an augmented, criterion-referenced, or norm-referenced assessment program that is valid, reliable, externally linked to a national norm, and vertically scaled for public school students in grades three through eight (3-8), which measures application of knowledge and skills in reading and writing literacy and mathematics. Science, civics, and government shall be measured on a schedule as determined by the state board.

(h)(1) The State of Arkansas shall participate in the administration of the National Assessment of Educational Progress examinations.

(2)(A) Any student failing to achieve the established standard on the Arkansas Comprehensive Assessment Program examinations shall be evaluated by school personnel, who shall jointly develop with the student's parents an academic improvement plan to assist the student in achieving the expected standard in subject areas in which performance is deficient.

(B) The academic improvement plan shall describe the parent's role and responsibilities as well as the consequences for the student's failure to participate in the plan.

(i)(1) Each school shall develop one (1) comprehensive, long-range school improvement plan focused on student achievement which shall be reported to the public.

(2)(A)(i) Any school that fails to achieve expected levels of student performance on the Arkansas Comprehensive Assessment Program examinations and related indicators, as defined in this subchapter, shall participate in a school improvement plan accepted by the department.

(ii) This improvement plan shall assist those students performing below grade level in achieving the expected standard.

(B) Progress on improved achievement shall be included as part of the school's annual report and the school district's annual report to the public.

(j)(1) The department and the local school districts shall annually compile and disseminate to the public results of all required examinations.

(2) The results of the end-of-course testing shall become a part of each student's transcript or permanent record and shall be recorded on these documents in a manner prescribed by the state board.

(k)(1) Parents, students, families, educational institutions, and communities are collaborative partners in education, and each plays an important role in the success of individual students. Therefore, the State of Arkansas cannot be the guarantor of each individual student's success.

(2) The goals of Arkansas' grades kindergarten through twelve (K-12) educational system are not guarantees that each individual student will succeed or that each individual school will perform at the level indicated in the goals.

History. Acts 1983 (Ex. Sess.), No. 54, § 13; 1983 (Ex. Sess.), No. 89, § 13; A.S.A. 1947, § 80-5813; Acts 1993, No. 846, § 4; 1997, No. 1172, § 4; 1999, No. 999, § 5; 2003, No. 1467, § 10; 2003 (2nd Ex. Sess.), No. 35, § 1; 2007, No. 1573, § 3.

Amendments. The 2007 amendment substituted “augmented, criterion-referenced, or norm-referenced assessments that” for “criterion-referenced exam which” in (d); substituted “augmented,

criterion-referenced, or norm-referenced assessments” for “criterion-referenced assessment” in (f)(4); in (g), deleted “By July 1, 2006” at the beginning and substituted “an augmented, criterion-referenced, or norm-referenced assessment” for “a criterion-referenced testing”; and made related and stylistic changes.

U.S. Code. The federal No Child Left Behind Act of 2001, referred to in (d), is codified as 20 U.S.C. § 6301 et seq.

6-15-405. [Repealed.]

Publisher’s Notes. This section, concerning reports, was repealed by Acts 1999, No. 999, § 6. The section was derived from Acts 1983 (Ex. Sess.), No. 54,

§ 11; 1983 (Ex. Sess.), No. 89, § 11; A.S.A. 1947, § 80-5811; Acts 1993, No. 846, § 5; 1997, No. 1172, § 5.

6-15-406. Assessment of basic skills.

The comprehensive testing, assessment, and accountability program to be developed by the Department of Education and approved by the State Board of Education shall include, but is not limited to, the following components or characteristics:

(1) Assessment of academic achievement at grade levels selected to be tested by the department;

(2) Longitudinal and trend data collection for the purposes of improving student and school performance;

(3) A variety of assessment methods;

(4) Construction of a database composed of academic performance indicators that shall apply to every school and school district in the state that will allow the department, over time, to identify those schools and school districts that are performing at or below proficient levels established under this subchapter;

(5) Meaningful comparisons of Arkansas students with those of other states, regions, and the nation through the National Assessment of Educational Progress Examination and norm-referenced examinations; and

(6) Review and assistance to the department in developing the comprehensive testing, assessment, and accountability program by a panel of external psychometric experts.

History. Acts 1983 (Ex. Sess.), No. 54, § 4; 1983 (Ex. Sess.), No. 89, § 4; A.S.A. 1947, § 80-5804; Acts 1993, No. 846, § 6;

1997, No. 1172, § 6; 1999, No. 999, § 8; 2003, No. 1467, § 11.

6-15-407. Basic competency tests generally.

(a) The “Arkansas Comprehensive Testing, Assessment, and Accountability Program” means a system of measurement and reporting designed to ensure that all students in the public schools of this state

demonstrate academic achievement through the application of knowledge and skills in core academic subjects consistent with state curriculum frameworks and performance standards.

(b) Neither the program nor any other assessment or testing procedure used in the public schools shall test or assess students' religious beliefs, political beliefs, ethics, attitudes, or values.

(c) Public school testing or assessment of student self-esteem, mental health, emotional health, or home or family life shall not be permitted.

(d) The nonacademic assessment of student conduct for the purpose of encouraging good behavior and decorum at school shall be permitted.

History. Acts 1983 (Ex. Sess.), No. 54, § 5; 1983 (Ex. Sess.), No. 89, § 5; A.S.A. 1947, § 80-5805; Acts 1993, No. 846, § 7; 1994 (2nd Ex. Sess.), No. 47, § 1; 1995, No. 385, § 1; 1997, No. 1172, § 7; 1999, No. 999, § 9.

6-15-408 — 6-15-413. [Repealed.]

Publisher's Notes. Sections 6-15-408 through 6-15-413, concerning administration of competency tests and test results, were repealed by Acts 1993, No. 846, § 8. These sections were derived from:

6-15-408. Acts 1983 (Ex. Sess.), No. 54, § 6; 1983 (Ex. Sess.), No. 89, § 6; A.S.A. 1947, § 80-5806.

6-15-409. Acts 1983 (Ex. Sess.), No. 54, § 7; 1983 (Ex. Sess.), No. 89, § 7; A.S.A. 1947, § 80-5807.

6-15-410. Acts 1983 (Ex. Sess.), No. 54,

§ 8; 1983 (Ex. Sess.), No. 89, § 8; A.S.A. 1947, § 80-5808.

6-15-411. Acts 1983 (Ex. Sess.), No. 54, § 9; 1983 (Ex. Sess.), No. 89, § 9; A.S.A. 1947, § 80-5809.

6-15-412. Acts 1983 (Ex. Sess.), No. 54, § 8; 1983 (Ex. Sess.), No. 89, § 8; A.S.A. 1947, § 80-5808; Acts 1989, No. 811, § 1.

6-15-413. Acts 1983 (Ex. Sess.), No. 54, § 10; 1983 (Ex. Sess.), No. 89, § 10; A.S.A. 1947, § 80-5810; Acts 1989, No. 811, § 2.

6-15-414. Testing additional grade levels.

At the direction of the State Board of Education, the Department of Education shall cause assessment instruments to be administered at additional grade levels as may be necessary to measure educational achievement in the public schools of this state.

History. Acts 1983 (Ex. Sess.), No. 54, § 10; 1983 (Ex. Sess.), No. 89, § 10; A.S.A. 1947, § 80-5810.

6-15-415. Public availability of test instruments and scores.

(a) Any material containing the identifiable scores of individual students on any test taken pursuant to the provisions of this subchapter shall not be considered a public record within the meaning of the Freedom of Information Act of 1967, § 25-19-101 et seq., and shall not be disseminated or otherwise made available to the public by any member of the State Board of Education, any employee of the Department of Education, any member of the board of directors of a school district, any employee of a school district, or any other person, except as permitted under the provisions of the Family Educational Rights and Privacy Act of 1974.

(b) All analyses, reports, and compilations of test scores which do not contain personal and identifiable education information shall be considered a public record within the meaning of the Freedom of Information Act of 1967, § 25-19-101 et seq.

(c) In order to protect the validity and reliability of the basic competency tests, the test instruments shall not be made available to the general public.

History. Acts 1983 (Ex. Sess.), No. 54, § 12; 1983 (Ex. Sess.), No. 89, § 12; A.S.A. 1947, § 80-5812.

U.S. Code. The Family Educational

Rights and Privacy Act of 1974, referred to in this section, is codified as 20 U.S.C. § 1232g.

6-15-416 — 6-15-418. [Repealed.]

Publisher's Notes. Former §§ 6-15-416 — 6-15-418, concerning parent conference attendance, failure to attend, and noncompliance of school district, were repealed by Acts 1999, No. 100, §§ 6, 7.

They were derived from the following sources:

6-15-416. Acts 1989, No. 474, § 1.

6-15-417. Acts 1989, No. 474, § 1.

6-15-418. Acts 1989, No. 811, § 3.

6-15-419. Definitions.

The following definitions shall apply in this subchapter and in §§ 6-15-2001 et seq., 6-15-2101 et seq., 6-18-227, 6-15-2201, 6-15-2301, and 6-15-2401:

(1) "Academic content standards" means standards that are approved by the State Board of Education and that set the skills to be taught and mastery level for each grade and content area;

(2)(A) "Academic improvement plan" means a plan detailing supplemental or intervention and remedial instruction, or both, in deficient academic areas for any student who is not proficient on a portion or portions of the state-mandated Arkansas Comprehensive Assessment Program.

(B)(i) Such a plan shall be created and implemented by appropriate teachers, counselors, and any other pertinent school personnel.

(ii) All academic improvement plans shall be annually reviewed and revised to ensure an opportunity for student demonstration of proficiency in the targeted academic areas on the next state-mandated Arkansas Comprehensive Assessment Program.

(iii) A cumulative review of all academic improvement plans shall be part of the data used by the school in creating and revising its comprehensive school improvement plan.

(iv) All academic improvement plans shall be subject to review by the Department of Education.

(C) In any instance in which a student with disabilities identified under the Individuals with Disabilities Education Act has an individualized education program that already addresses any academic area or areas in which the student is not proficient on state-mandated augmented, criterion-referenced, or norm-referenced assessments,

the individualized education program shall serve to meet the requirement of an academic improvement plan;

(3) "Adequate yearly progress" means that level of academic improvement required of public schools or school districts on the state-mandated augmented, criterion-referenced, or norm-referenced assessments and other indicators as required in the Arkansas Comprehensive Testing, Assessment, and Accountability Program, which shall comply with the Elementary and Secondary Education Act as reauthorized in the No Child Left Behind Act of 2001;

(4) "Annexation" means the joining of an affected school district or part of the school district with a receiving district under § 6-13-1401 et seq.;

(5) "Annual improvement gains" or "student learning gains" means calculating a student's academic progress from one (1) year to the next, based on a same series nationally normed assessment given in the same time frame from one (1) year to the next, used as a pre-post measure of learning for the content areas tested;

(6) "Annual performance" means that level of academic achievement required of public schools or school districts on the state-mandated augmented, criterion-referenced, or norm-referenced assessments;

(7) "Arkansas Comprehensive Assessment Program" means the testing component of the Arkansas Comprehensive Testing, Assessment, and Accountability Program, which shall consist of:

(A) Developmentally appropriate augmented, criterion-referenced, or norm-referenced assessments in kindergarten through grade twelve (K-12), as determined by the state board;

(B) Any other assessments as required by the state board;

(C) Other assessments that are based on researched best practices as determined by qualified experts which would be in compliance with federal and state law; and

(D) End-of-course examinations for designated grades and content areas;

(8) "Arkansas Comprehensive Testing, Assessment, and Accountability Program" means a comprehensive system that focuses on high academic standards, professional development, student assessment, and accountability for schools;

(9) "Comprehensive school improvement plan" means the individual school's comprehensive plan based on priorities indicated by assessment and other pertinent data and designed to provide an opportunity for all students to demonstrate proficiency on all portions of the state-mandated Arkansas Comprehensive Assessment Program;

(10) "Consolidation" means the joining of two (2) or more school districts or parts of the school districts to create a new single school district under § 6-13-1401 et seq.;

(11)(A) "District improvement plan" means a districtwide plan coordinating the actions of the various comprehensive school improvement plans within a school district.

(B) The main focus of the district improvement plan shall be to ensure that all students demonstrate proficiency on all portions of the state-mandated Arkansas Comprehensive Assessment Program;

(12)(A) "Early intervention" means short-term, intensive, focused, individualized instruction developed from ongoing, daily, systematic diagnosis that occurs while a child is in the initial, kindergarten through grade one (K-1), stages of learning early reading, writing, and mathematical strategies to ensure acquisition of the basic skills and to prevent the child from developing poor problem-solving habits that become difficult to change.

(B) The goal is to maintain a student's ability to function proficiently at grade level;

(13) "End of course" means an examination taken at the completion of a course of study to determine whether a student demonstrates attainment of the knowledge and skills necessary to mastery of that subject;

(14) "Grade inflation rate" means the statistical gap between actual grades assigned for core classes at the secondary level and student performance on corresponding subjects on nationally normed college entrance exams such as the American College Test;

(15) "Grade level" means performing at the proficient or advanced level on state-mandated Arkansas Comprehensive Assessment Program tests;

(16) "High school" means grades nine through twelve (9-12);

(17) "Longitudinal tracking" means tracking individual student yearly academic achievement gains based on scheduled and annual assessments;

(18) "Middle level" means grades five through eight (5-8);

(19) "No Child Left Behind Act" means the No Child Left Behind Act of 2001 signed into federal law on January 8, 2002;

(20) "Parent" means:

(A) A parent, parents, legal guardian, a person standing in loco parentis, or legal representative, as appropriate, of a student; or

(B) The student if the student is eighteen (18) years of age or older;

(21) "Point-in-time intervention and remediation" means intervention and remediation applied during the academic year upon the discovery that a student is not performing at grade level;

(22) "Primary" means kindergarten through grade four (K-4);

(23) "Public school" means those schools or school districts created pursuant to Title 6 of the Arkansas Code and subject to the Arkansas Comprehensive Testing, Assessment, and Accountability Program except specifically excluding those schools or educational programs created by or receiving authority to exist pursuant to § 6-15-501, § 9-28-205, § 12-29-301 et seq., or other provisions of Arkansas law;

(24) "Public school in school improvement" or "school in need of immediate improvement" means any public school or public school district identified as failing to meet certain established levels of academic achievement on the state-mandated augmented, criterion-

referenced, or norm-referenced assessments as required by the state board in the program;

(25) “Reconstitution” means a reorganization intervention in the administrative unit or governing body of a public school district, including, but not limited to, the suspension, reassignment, replacement, or removal of a current superintendent or the suspension, removal, or replacement of some or all of the current school board members, or both;

(26)(A)(i) “Remediation” means a process of using diagnostic instruments to provide corrective, specialized, supplemental instruction to help a student in grades two through four (2-4) overcome academic deficiencies.

(ii) For students in grades five through twelve (5-12), remediation shall be a detailed, sequential set of instructional strategies implemented to remedy any academic deficiencies indicated by below-basic or basic performance on the state-mandated augmented, criterion-referenced, or norm-referenced assessments.

(B) Remediation shall not interfere with or inhibit student mastery of current grade level academic learning expectations;

(27) “School district in academic distress” means any public school district failing to meet the minimum level of academic achievement on the state-mandated augmented, criterion-referenced, or norm-referenced assessments as required by the state board in the program;

(28) “School improvement plan” means the individual school’s comprehensive plan based on priorities indicated by assessment and other pertinent data and designed to ensure that all students demonstrate proficiency on all portions of the state-mandated Arkansas Comprehensive Assessment Program examinations;

(29) “Social promotion” means the passage or promotion from one (1) grade to the next of a student who has not demonstrated knowledge or skills required for grade-level academic proficiency;

(30) “Uniform school readiness screening” means uniform, objective evaluation procedures that are geared to either kindergarten or first grade, as appropriate, and developed by the state board and specifically formulated for children entering public school for the first time; and

(31) “Value-added computations of student gains” means the statistical analyses of the educational impact of the school’s instructional delivery system on individual student learning, using a comparison of previous and posttest student achievement gains against a national cohort.

History. Acts 1999, No. 999, § 3; 2003, No. 1467, § 12; 2003 (2nd Ex. Sess.), No. 35, § 11; 2007, No. 1573, § 4.

A.C.R.C. Notes. References to “this subchapter” in §§ 6-15-401 — 6-15-418 may not apply to this section which was enacted subsequently.

Amendments. The 2007 amendment substituted “augmented, criterion-refer-

enced, or norm-referenced assessments” for “criterion-referenced assessments” and “criterion-referenced examinations” throughout the section; rewrote (7); deleted former (11) and (31) and redesignated the remaining subdivisions accordingly; inserted “augmented” and “or norm-referenced” in (26)(A)(ii); and made related changes.

U.S. Code. The Individuals with Disabilities Education Act referred to in this section is codified as 20 U.S.C. § 1400 et seq.

The federal Elementary and Secondary Education Act of 1965 and the No Child Left Behind Act of 2001, referred to in (2), are codified as 20 U.S.C.S. § 6301 et seq.

6-15-420. Remediation and intervention.

(a)(1) In order for students to be academically prepared to achieve proficiency in reading and writing literacy and mathematics, the Department of Education shall require each public school serving students in kindergarten through grade four (K-4) to develop, select, and implement ongoing, informal assessments linked to the Arkansas frameworks.

(2) Literacy assessment training and mathematics assessment training utilizing research-based diagnostic instruments or tools will be provided for teachers by the department. Where grant funds are available in the areas of highest need, a literacy coordinator may be trained.

(b)(1) Any student in kindergarten through grade one (K-1) failing to perform at the proficient level in reading and writing literacy or mathematics shall be evaluated as early as possible within each of the kindergarten through grade one (K-1) academic years. Those students shall be evaluated by personnel with expertise in reading and writing literacy or mathematics who shall develop and implement an academic improvement plan, using early intervention strategies sanctioned by the department, to assist the student in achieving the expected standard.

(2) Any student in grades two through four (2-4) failing to perform at the proficient level in reading and writing literacy or mathematics shall be evaluated by personnel with expertise in reading and writing literacy or mathematics who shall develop and implement an academic improvement plan, using remediation strategies sanctioned by the department, to assist the student in achieving the expected standard.

(c)(1) Upon completion of the intervention and remediation plans in subdivisions (b)(1) and (2) of this section, those schools that fail to achieve expected levels of student performance at the primary level on augmented, criterion-referenced, or norm-referenced assessments, as defined in this subchapter, shall participate in a comprehensive school improvement plan accepted by the department.

(2)(A) This plan shall be part of each school's long-range comprehensive school improvement plan and shall be reported to the public.

(B) Progress on improved achievement shall be included as part of the school and school district's annual report to the public.

(d)(1) As part of the comprehensive testing, assessment, and accountability program, the department shall ensure that each school and school district establishes a plan to assess whether children in the middle-level and high school grades are performing at proficient levels in reading and writing literacy, mathematics, and, as funds are available, other core academic subjects.

- (2) Each school and school district shall use multiple assessment measures, which shall include, but not be limited to, state-mandated augmented, criterion-referenced, or norm-referenced assessments.
- (e) Any student failing to demonstrate a proficient level of achievement in reading and writing literacy, mathematics, or, as funds are available, other core academic subjects shall participate in an individual academic improvement plan specifically designed to achieve proficient-level performance standards in these areas.

History. Acts 1999, No. 999, § 7; 2003, No. 1467, § 13; 2007, No. 1573, § 5.

A.C.R.C. Notes. References to “this subchapter” in §§ 6-15-401 — 6-15-418 may not apply to this section which was enacted subsequently.

Amendments. The 2007 amendment substituted “augmented, criterion-referenced, or norm-referenced assessments” for “criterion-referenced tests” in (c)(1) and (d)(2).

6-15-421. Awards and sanctions.

- (a) The Department of Education is authorized to develop and implement, contingent upon appropriation and funding being provided by the General Assembly, a program of rewards to recognize individual schools that demonstrate exceptional performance in levels of student achievement and to recognize schools that demonstrate significant improvement in student achievement.
- (b)(1)(A) Each school that does not attain the expected levels of student performance on state-mandated indicators and individual school improvement indicators shall be designated by one (1) of several levels of sanction.
- (B) Each level of sanction shall determine specific interventions to be provided to the students of public schools or public school districts by the department.
- (2) The levels of sanction developed under Acts 2003, No. 1467 shall be incorporated into the existing comprehensive school improvement plan.
- (c) The State Board of Education shall develop a clear, concise system of reporting the academic performance of each public school on the state-mandated augmented, criterion-referenced, or norm-referenced assessments, developmentally appropriate assessments for grades kindergarten through two (K-2), benchmark examinations, and end-of-course examinations, which conforms with current state and federal law.
- (d)(1)(A) Within thirty (30) days of a student’s completing a course for which the state board has adopted an end-of-course assessment, the school district shall provide the Division of Public School Accountability of the Department of Education with each student’s name, identification number, and grade in the course.
- (B) The division shall:
- (i) Match each student’s end-of-course test score with the letter grade received in the corresponding course;

(ii) Report each student's end-of-course test score matched with the letter grade the student received in the corresponding course to the school district;

(iii) Create a report of the percentage of students who received a letter grade of "B" or above in the corresponding course and passed the end-of-course assessment on his or her first attempt; and

(iv) Create a report of the percentage of students who received a letter grade of "B" or above in the corresponding course and did not pass the end-of-course assessment on the first attempt.

(2)(A) No later than December 1 of each year, the division shall report to the state board and the General Assembly the name, address, and superintendent of any high school in which more than twenty percent (20%) of the students received a letter grade of "B" or above but did not pass the end-of-course assessment on the first attempt.

(B) The report shall indicate by high school the number of students receiving a letter grade of "B" or above in the corresponding course who did not pass the end-of-course assessment on the first attempt, provided such disclosure is not in conflict with applicable federal or state law.

(3) The department shall:

(A) Investigate the classroom practices of any school district in which more than twenty percent (20%) of the students received a letter grade of "B" or above but did not pass the end-of-course assessment on the first attempt; and

(B) Make in written form to the superintendent and local school board of directors any recommendations or changes that would improve classroom instruction and student performance on end-of-course assessments.

(4) As a part of the school improvement plan pursuant to § 6-15-2201, the state board shall ensure that each school district and high school develops strategies to improve student readiness for the public postsecondary level based on annual analysis of the feedback report data.

(5) The department shall biennially recommend to the General Assembly statutory changes to reduce the incidence of postsecondary remediation in mathematics, reading, and writing for recent high school graduates who enroll in an institution of higher education.

(e) The state board, through the department, is hereby authorized to promulgate rules and regulations as may be necessary to carry out the provisions of this subchapter.

History. Acts 1999, No. 999, § 10; 2003, No. 1467, § 14; 2003 (2nd Ex. Sess.), No. 35, § 2; 2005, No. 2197, § 1; 2007, No. 1573, § 6.

A.C.R.C. Notes. References to "this subchapter" in §§ 6-15-401 — 6-15-418 may not apply to this section which

was enacted subsequently.

Publisher's Notes. Acts 2003, No. 1467, referred to in (b)(2), is codified as §§ 6-13-1403 — 6-13-1405, 6-13-1409, 6-13-1410, 6-15-201 — 6-15-203, 6-15-206 — 6-15-209, 6-15-211 [repealed], 6-15-401 — 6-15-404, 6-15-406, 6-15-419 — 6-15-

421, 6-15-424 — 6-15-432, 6-20-1601 — 6-20-1610 [repealed], and 6-20-1901 — 6-20-1911.

Amendments. The 2005 amendment added (d); and redesignated former (d) as present (e).

The 2007 amendment substituted “augmented, criterion-referenced, or norm-referenced assessments” for “criterion-referenced tests” in (c).

6-15-422. Comprehensive Testing, Assessment, and Accountability Program progress report.

The Department of Education shall report to the members of the House Interim Committee on Education and the Senate Interim Committee on Education on the progress of the Arkansas Comprehensive Testing, Assessment, and Accountability Program. The report shall be due on September 1, 1999, and annually thereafter.

History. Acts 1999, No. 999, § 12.

A.C.R.C. Notes. References to “this subchapter” in §§ 6-15-401 — 6-15-418

may not apply to this section which was enacted subsequently.

6-15-423. [Repealed.]

Publisher’s Notes. This section, concerning comparing grade point averages with national test scores, was repealed by

Acts 2007, No. 1573, § 49. The section was derived from Acts 2001, No. 1660, § 1.

6-15-424. Rules and regulations.

The State Board of Education shall establish rules as may be necessary to require the Department of Education to implement a program for identifying, evaluating, assisting, and addressing public schools or public school districts failing to meet established levels of academic achievement on the state-mandated augmented, criterion-referenced, or norm-referenced assessments as required in the Arkansas Comprehensive Testing, Assessment, and Accountability Program.

History. Acts 2003, No. 1467, § 15; 2007, No. 1573, § 7.

Amendments. The 2007 amendment substituted “establish rules” for “promul-

gate rules and regulations” and “augmented, criterion-referenced, or norm-referenced assessments” for “criterion-referenced tests.”

6-15-425. School improvement or academic distress.

(a) Those public individual schools identified by the Department of Education as failing to meet established levels of academic achievement shall be classified as being in school improvement as required by the Arkansas Comprehensive Testing, Assessment, and Accountability Program rules and regulations.

(b) Those public school districts identified by the department as failing to meet established levels of academic achievement shall be classified as being either in school improvement or academic distress, or both, as required by the program rules and regulations.

History. Acts 2003, No. 1467, § 16.

6-15-426. School improvement.

(a) The State Board of Education shall develop a single comprehensive testing, assessment, and accountability program which shall identify and address all public schools or public school districts in school improvement or academic distress and shall be incorporated into the Arkansas Comprehensive Testing, Assessment, and Accountability Program rules and regulations which shall comply with the Elementary and Secondary Education Act as reauthorized by the No Child Left Behind Act of 2001.

(b) The school board president and the superintendent of a public school or school district identified by the Department of Education as being classified as in school improvement shall be notified of the classification in writing by the department via certified mail, return receipt requested, and the school district shall have a right of appeal pursuant to the program rules and regulations which shall comply with the No Child Left Behind Act of 2001.

(c) The program shall require that any public school or school district in school improvement that fails to make adequate yearly progress as required in the program may, after being afforded all due process rights and in a timely manner required under the No Child Left Behind Act of 2001 be advanced by the state board to the corrective action or restructuring phase of the program adopted in the program rules and regulations.

(d) Any public school or school district classified in school improvement shall comply with all requirements placed on a public school or school district under the program rules and regulations as required by the No Child Left Behind Act of 2001.

(e) Each public school or school district shall develop and file with the department a comprehensive school improvement plan which shall be reviewed by the department and shall be designed to ensure that all students have an opportunity to obtain an adequate education and demonstrate proficiency on all portions of the state-mandated augmented, criterion-referenced, or norm-referenced assessments.

(f) The comprehensive school improvement plan shall:

(1) Be based on an analysis of student performance data and other relevant data that provide a plan of action to address deficiencies in student performance and any academic achievement gap evidenced in the Arkansas Comprehensive Testing, Assessment, and Accountability Program; and

(2) Include the public school or school district's use of categorical funding for:

(A) Alternative learning environments;

(B) Professional development;

(C) English-language learners; and

(D) National school lunch students, as defined by § 6-20-2303(12)(A).

(g) Any public school or school district classified as in school improvement under § 6-15-425 shall develop and file with the department a revised comprehensive school improvement plan meeting the requirements of this section and containing any additional requirements determined necessary by the department to ensure that all students in the public school or school district have an opportunity to demonstrate proficiency on all portions of the state-mandated assessments.

(h) At the end of each school year, the school district shall assess the effectiveness of an intervention or other action included in the comprehensive school improvement plan in improving student performance and include the assessment in the comprehensive school improvement plan for the following school year.

(i)(1) The department shall monitor each public school's and school district's compliance regarding its comprehensive school improvement plan, including without limitation:

(A) The use of public school funding under the Public School Funding Act of 2003, § 6-20-2301 et seq., for the following:

(i) Instructional facilitators as that term is defined by the state board;

(ii) Alternative learning environments, professional development, English-language learners, and national school lunch students identifying specific:

(a) Educational strategies;

(b) Resources used, including tutors, teachers' aides, counselors, social workers, and nurses; and

(c) Expenditures made from categorical funds provided under § 6-20-2305(b); and

(B) The implementation of programs for students whose academic achievement is below proficient.

(2) As part of the monitoring process under this subsection (i), the department shall evaluate the research cited by the public school or school district in its comprehensive school improvement plan in support of the proposed interventions and actions to assess its independence and empirical support for the effectiveness of the program.

(3) The department shall use the information obtained through monitoring comprehensive school improvement plans under this section to:

(A) Determine the compliance of the public school or school district with the provisions of this subchapter; and

(B) Evaluate whether the assessment conducted by the public school or school district under subsection (h) of this section was conducted properly, and assess the areas in which the public school or school district needs to revise its plan.

(j) The state board shall incorporate the provisions of subsections (f) through (i) of this section into its rules for comprehensive school improvement plans and may amend those rules in the same manner as provided by law for other rules established by the state board.

History. Acts 2003, No. 1467, § 16; 2007, No. 807, §§ 1, 2; 2007, No. 1573, § 8.

A.C.R.C. Notes. Acts 2007, Nos. 807, § 2 and 1573, § 8 both amended § 6-15-426(e). A clause of subsection (e) amended by Acts 2007, Nos. 807, § 2 and 1573, § 8 could not be reconciled. Pursuant to § 1-2-207, that clause is set out above as amended by Acts 2007, No. 1573, § 8. The clause was amended by Acts 2007, No. 807, § 2 to read as follows: "on all portions of the state-mandated assessments."

Acts 2007, No. 807, § 1 provided: "COMPLIANCE. The General Assembly declares this act to be in concordance with the study of the state's system of public education conducted in 2006 by the Adequacy Study Oversight Subcommittee,

the Senate Interim Committee on Education, and the House Interim Committee on Education in compliance with Act 57 of the Second Extraordinary Session of 2003."

Amendments. The 2007 amendment by No. 807 rewrote (e); inserted present (f); deleted former (f); and added (g) through (j).

The 2007 amendment by No. 1573 subdivided (e) into (1) and (2); and substituted "augmented, criterion-referenced, or norm-referenced assessments" for "criterion-referenced tests" in present (e)(1).

U.S. Code. The federal Elementary and Secondary Education Act and the No Child Left Behind Act of 2001, referred to in (a) and (b), are codified as 20 U.S.C.S. § 6301 et seq.

6-15-427. School district testing programs.

Each school district board of directors shall annually provide a written evaluation of student performance and achievement within each school of the school district. This evaluation and suggested measures to improve performance shall be presented in a public hearing in the same locality as the school district and submitted with comments made at the public hearing to the Department of Education.

History. Acts 2003, No. 1467, § 16.

6-15-428. Academic distress identification, notification, classification, and appeal.

(a) The school board president and superintendent of a school district identified by the Department of Education as being in academic distress shall be notified in writing by the department via certified mail, return receipt requested, and shall have a right of appeal to the State Board of Education.

(b) Any school district identified in academic distress may appeal to the state board by filing a written appeal with the Commissioner of Education via certified mail, return receipt requested, within thirty (30) calendar days of receipt of the written notice of academic distress status from the department.

(c)(1) The state board shall hear the appeal of the school district within sixty (60) days of receipt of the written appeal in the commissioner's office.

(2) The state board's determination shall be final except that a school district may appeal to Pulaski County Circuit Court under the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

(d) Those school districts identified by the department as being in academic distress shall be classified as school districts in academic distress upon final determination by the state board.

History. Acts 2003, No. 1467, § 16.

6-15-429. Academic distress — Required action.

(a) A public school district identified as in “academic distress” shall have no more than two (2) consecutive school years from the date of receipt of notice of identification from the Department of Education to be removed from academic distress status.

(b) The State Board of Education may at any time take enforcement action on any school district in academic distress status, including, but not limited to, annexation, consolidation, or reconstitution of a school district pursuant to § 6-13-1401 et seq. and the authority of this subchapter, except no public school district shall be allowed to remain in academic distress status for a time period greater than two (2) consecutive school years from the date of receipt of notice of identification of academic distress from the department.

(c) If a public school district fails to be removed from academic distress status within the allowed two-year time period, the state board shall annex, consolidate, or reconstitute the academic distress school district prior to July 1 of the next school year unless the state board, at its discretion, issues a written finding supported by a majority of the state board explaining in detail that the school district could not remove itself from academic distress during the relevant time period due to impossibility caused by external forces beyond the school district’s control.

History. Acts 2003, No. 1467, § 16.

6-15-430. State Board of Education authority over school in academic distress.

(a) The State Board of Education shall have the following authority regarding any public school district in academic distress:

(1) To require the superintendent of the school district to relinquish all authority with respect to the school district and to appoint an individual to administratively operate the school district under the supervision of the Commissioner of Education, with the cost to be paid from school district funding;

(2) To suspend or remove some or all of the current board of directors and call for the election of a new school board of directors for the school district, in which case the school district shall reimburse the county board of election commissioners for election costs as otherwise required by law;

(3) To allow the school district to operate without the local school board of directors under the supervision of the local school district administration or an administration chosen by the Commissioner of Education;

(4) To waive the application of Arkansas law, with the exception of the Teacher Fair Dismissal Act of 1983, § 6-17-1501 et seq., and the

Public School Employee Fair Hearing Act, § 6-17-1701 et seq., or the Department of Education rules and regulations;

(5) To require the annexation, consolidation, or reconstitution of the public school district; and

(6) To take any other necessary and proper action, as determined by the state board, that is allowed by law.

(b)(1) Any student attending a public school district classified as being in academic distress shall automatically be eligible and entitled pursuant to the Arkansas Public School Choice Act of 1989, § 6-18-206, to transfer to another geographically contiguous school district not in academic distress during the time period that a school district is classified as being in academic distress and, therefore, not be required to file a petition by July 1 but shall meet all other requirements and conditions of the Arkansas Public School Choice Act of 1989, § 6-18-206.

(2) The cost of transporting the student from the resident district to the nonresident district shall be the cost of the resident district.

(3) The nonresident district shall count the student for average daily membership purposes.

History. Acts 2003, No. 1467, § 16.

6-15-431. Academic distress rules and regulations.

(a) The State Board of Education shall promulgate rules and regulations as necessary to identify, evaluate, assist, and address public school districts determined to be in academic distress.

(b) The academic distress rules and regulations shall be incorporated as part of the Arkansas Comprehensive Testing, Assessment, and Accountability Program rules and regulations.

History. Acts 2003, No. 1467, § 16.

6-15-432. Unsafe school choice program.

(a) Any student that becomes the victim of a violent criminal offense while in or on the grounds of an Arkansas public elementary, secondary, or public charter school or who is attending a persistently dangerous public school shall be allowed to attend a safe public school within the local educational agency pursuant to rules and regulations established by the State Board of Education and the requirements of The No Child Left Behind Act of 2001.

(b) The state board shall promulgate rules and regulations, as necessary, to administer this section.

History. Acts 2003, No. 1467, § 17.

U.S. Code. The federal No Child Left

Behind Act of 2001, referred to in (a), is codified as 20 U.S.C.S. § 6301 et seq.

RESEARCH REFERENCES

U. Ark. Little Rock L. Rev. Survey of assembly, Education Law, Academic Standards, 2003 Arkansas General Assembly, 26 U. Ark. Little Rock L. Rev. 385.

6-15-433. Statewide assessment program.

(a) Upon approval by the State Board of Education, the Department of Education shall implement a statewide program of educational assessment that provides information for the improvement of the operation and management of the public schools.

(b) Pursuant to the statewide assessment program, the department shall:

(1) Determine and designate the appropriate offices within the department which shall report to the state board and shall be responsible for determining each school's improvement and performance levels;

(2) Develop and implement a uniform system of indicators to describe the performance of public school students and the characteristics of the public school districts and the public schools; and

(3)(A) Implement student achievement testing as part of the statewide assessment program, to be administered annually to measure reading, writing, and mathematics and that includes:

(i) Developmentally appropriate testing for grades kindergarten through two (K-2);

(ii)(a) Developmentally appropriate augmented, criterion-referenced, or norm-referenced assessments in kindergarten through grade twelve (K-12), as determined by the state board; or

(b) Other assessments which are based on researched best practices as determined by qualified experts which would be in compliance with federal and state law;

(iii) Any other tests required by the state board; and

(iv) End-of-course examinations shall be administered for Algebra I, geometry, literacy, and other content areas as directed by the state board.

(B) Science, civics, and government shall be measured on a schedule as determined by the state board.

(c) The testing program shall be designed so that:

(1)(A)(i) The tests measure student skills and competencies adopted by the state board as specified in § 6-15-404(a).

(ii) The tests shall measure and report student achievement levels in reading, writing, and mathematics, including longitudinal tracking of the same students, as well as an analysis of value-added computations of student achievement gains against a national cohort.

(B) The department shall provide for the tests to be obtained or developed, as appropriate, through contracts and project agreements;

(2)(A) The testing program, as determined by the state board, shall consist of augmented, criterion-referenced, or norm-referenced assessments or other assessments as defined in subdivision

(b)(3)(A)(ii)(b) of this section.

(B) Questions shall require the student to produce information and perform tasks in such a way that the skills and competencies he or she uses can be measured in a statistically reliable and valid manner;

(3)(A)(i) Each testing program, whether at the elementary beginning at grade three (3), middle school, or high school level, shall include to the fullest extent possible a test of writing in which students are required to produce writings that are then scored by appropriate analytic methods that ensure overall test validity and reliability, including inter-rater reliability.

(ii) Writing test results shall be scored and returned for school district and school use no later than July 1 of each year beginning in 2005-2006 and each year thereafter.

(B) For end-of-course exams, the department may extend the July 1 deadline under subdivision (c)(3)(A) of this section to August 1 if the department finds, based on the request for proposals, that:

(i) The cost of administration of the end-of-course exam will be substantially more because of the earlier deadline; or

(ii) The validity of the end-of-course exam results will be compromised because of the earlier deadline;

(4) For each subject area tested, a score shall be designated that will be the required level of proficiency below which score a student's performance is deemed inadequate;

(5) Beginning in the 2004-2005 school year, students in grades kindergarten through twelve (K-12) who do not demonstrate proficiency on the Arkansas Comprehensive Assessment Program examinations shall participate in an intense remediation program specific to identified deficiencies;

(6) The state board shall designate, based on valid and reliable statistical models, the proficiency levels for each part of the Arkansas Comprehensive Assessment Program examinations;

(7)(A)(i) Participation in the testing program is mandatory for all students attending public school except as otherwise prescribed by the state board.

(ii) If a student does not participate in the Arkansas Comprehensive Assessment Program examinations, the school district shall notify the student's parent or guardian and provide the parent or guardian with information regarding the reasons for and implications of such nonparticipation.

(B) The state board shall:

(i) Adopt rules in compliance with federal and state law, based upon recommendations of the department, for the provision of test accommodations and modifications of procedures as necessary for students in exceptional education programs and for limited-English proficient students; and

(ii) Not make accommodations that negate the validity of a state-wide assessment or interpretations or implementations which result in less than ninety-five percent (95%) of all students attending public school participating in the testing program;

(8) The department shall implement student testing programs for any grade level and subject area necessary to effectively monitor educational achievement in the state and shall provide data access to any unit within the department or contracted firm or firms for the purpose of analyzing value-added computations and posting school, school district, and state student achievement, provided such disclosures are not in conflict with applicable federal and state law;

(9)(A) Each school district shall ensure that educators in that school district provide instruction to prepare students to demonstrate proficiency in the skills and competencies necessary for successful grade-to-grade progression and high school graduation.

(B) The department shall verify that the required skills and competencies are part of the school district instructional programs;

(10) Conduct ongoing research to develop improved statistically reliable and valid methods of assessing student performance, including, without limitation, the:

(A) Use of technology to administer, score, or report the results of tests; and

(B) Use of electronic transfer of data;

(11) Conduct or contract with a provider to conduct ongoing research and analysis of individual student, classroom, school, school district, and state achievement data, including without limitation monitoring value-added trends in individual student, school, school district, and state achievement, identifying school programs that are successful, and analyzing correlates of school achievement; and

(12) Provide technical assistance to school districts in the implementation of state and school district testing programs and the use of the data produced pursuant to such programs, including longitudinal tracking data.

History. Acts 2003 (2nd Ex. Sess.), No. 35, § 4; 2003 (2nd Ex. Sess.), No. 75, § 1; 2007, No. 1573, §§ 9, 10.

Amendments. The 2007 amendment rewrote (b)(3)(A)(ii)(a); and substituted

“augmented, criterion-referenced, or norm-referenced assessments” for “norm-referenced and criterion-referenced testing” in (c)(2)(A).

6-15-434. School testing programs.

(a) Student performance data shall be analyzed and reported to parents, the community, and the state, provided such disclosures are not in conflict with applicable federal and state law.

(b) Student performance trend data shall be one (1) of the components used in developing objectives of the school improvement plan, internal evaluations of instructional and administrative personnel, assignment of staff, allocation of resources, acquisition of instructional materials and technology, performance-based budgeting, and assignment of students into educational programs of the local school district.

History. Acts 2003 (2nd Ex. Sess.), No. 35, § 4.

6-15-435. Required analyses.

The Department of Education shall provide, at a minimum, for the following analyses of data produced by the student achievement testing program:

(1) The statistical system for the annual assessments shall use the Arkansas Comprehensive Assessment Program examinations and other valid and reliable measures of student learning deemed appropriate by the State Board of Education to determine classroom, school, and school district statistical distributions that shall measure the differences in a student's previous year's achievement compared to the current year's achievement for the purposes of improving student achievement, accountability, and recognition;

(2)(A) The statistical system shall provide the best estimates of classroom, school, and school district effects on student progress based on established, value-added longitudinal calculations.

(B) The approach used by the department shall be approved by the state board before implementation; and

(3)(A)(i) The approach used by the department shall be in alignment with federal statutes and be piloted in the 2004-2005 school year to collect data to allow research and evaluation of student achievement growth models.

(ii) The approach shall include the following:

(a) Value-added longitudinal calculations;

(b) Sufficient transparency in the models' conception and operation to allow others in the field to validate or replicate the results; and

(c) An assessment of the models' accurateness in relation to other models.

(iii) A team of relevant technical experts in student assessment and the state board shall review and approve the cost effectiveness of the model in terms of actual and in-kind costs before implementation.

(B) The department shall establish a schedule for the administration of the statewide assessments.

(C)(i) Beginning in the 2005-2006 school year and each subsequent year thereafter, in establishing such a schedule, the department is charged with the duty to accomplish the latest possible administration of the statewide assessments and the earliest possible provision, but no later than July 1, of the results to the school districts.

(ii) For end-of-course exams, the department may extend the July 1 deadline under subdivision (3)(C)(i) of this section to August 1 if the department finds, based on the request for proposals, that:

(a) The cost of administration of the end-of-course exam will be substantially more because of the earlier deadline; or

(b) The validity of the end-of-course exam results will be compromised because of the earlier deadline.

(D) School district boards of directors shall not establish school calendars that jeopardize or limit the valid testing and comparison of student learning gains.

History. Acts 2003 (2nd Ex. Sess.), No. 35, § 4; 2003 (2nd Ex. Sess.), No. 75, § 2.

6-15-436. Local assessments.

(a) School districts may elect to measure the learning gains of students in subjects and at grade levels in addition to those required for the Arkansas Comprehensive Assessment Program examinations.

(b) Measurement of the learning gains of students in all subjects and grade levels other than subjects and grade levels required for the program is the responsibility of the school districts.

(c) The results of these assessments shall be provided to the Department of Education upon request of the Commissioner of Education.

History. Acts 2003 (2nd Ex. Sess.), No. 35, § 4.

6-15-437. Rules.

The State Board of Education shall adopt any rules necessary to implement the Arkansas Comprehensive Testing, Assessment, and Accountability Program, § 6-15-401 et seq., pursuant to the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

History. Acts 2003 (2nd Ex. Sess.), No. 35, § 4.

6-15-438. Test security and confidentiality.

(a) Violation of the security or confidential integrity of any test or assessment is prohibited.

(b)(1) The State Board of Education shall sanction a person who engages in conduct prohibited by this section.

(2) Additionally, the state board may sanction a school district or school, or both, in which conduct prohibited in this section occurs.

(3) Sanctions imposed by the state board may include without limitation one (1) or more of the following:

(A) Revocation, suspension, or probation of an individual's license;

(B) Issuance of a letter of reprimand to a licensed individual to be placed in his or her state personnel file;

(C) Additional training or professional development to be completed by a licensed individual within the time specified;

(D) Additional professional development to be administered by the school district to all licensed school district personnel involved in test administration within the time specified;

(E) Issuance of a letter of warning to the school district; and

(F) Establishment of a school district plan containing strict test security guidelines that will implement procedures to ensure the security and confidential integrity of all assessment instruments.

(4) Professional development required pursuant to subsection (b)(3) of this section as a result of violating test security or confidentiality may be in addition to professional development required for licensure.

(c)(1) Procedures for maintaining the security and confidential integrity of all testing and assessment instruments and procedures shall be specified in the appropriate test or assessment administration instructions.

(2) "Conduct that violates the security or confidential integrity of a test or assessment" means any departure from either the requirements established by the Commissioner of Education for the administration of the assessment or from the procedures specified in the applicable test administration materials.

(3) "Conduct that violates the security or confidential integrity of a test or assessment" may include, but is not limited to, the following acts and omissions:

- (A) Viewing secure assessment materials;
- (B) Duplicating secure assessment materials;
- (C) Disclosing the contents of any portion of secure assessment materials;
- (D) Providing, suggesting, or indicating to an examinee a response or answer to any secure assessment items;
- (E) Aiding or assisting an examinee with a response or answer to any secure assessment item;
- (F) Changing or altering any response or answer of an examinee to a secure assessment item;
- (G) Failing to follow the specified testing procedures or to proctor students;
- (H) Failing to administer the assessment on the designated testing dates;
- (I) Encouraging or assisting an individual to engage in the conduct described in this subsection;
- (J) Failing to report to the appropriate authority that an individual has engaged in conduct set forth in this section;
- (K) Failing to follow the specified procedures and required criteria for alternate assessments; or
- (L) Failing to return the secured test booklets to the testing company in a timely manner.

History. Acts 2003 (2nd Ex. Sess.), No. 35, § 4; 2007, No. 1573, § 11.

Amendments. The 2007 amendment rewrote (b).

6-15-439. Reporting of assessment scores.

(a) The assessment scores under the Arkansas Comprehensive, Testing, Assessment, and Accountability Program for assessments taken by students attending the Arkansas School for Mathematics, Sciences, and the Arts of the University of Arkansas System shall be sent to the public school district the student attended immediately prior to transferring to the Arkansas School for Mathematics, Sciences, and the Arts, with

copies made available to the Arkansas School for Mathematics, Sciences, and the Arts, and shall be included on the reports of the school district the student attended immediately prior to transferring to the Arkansas School for Mathematics, Sciences, and the Arts.

(b) The State Board of Education shall promulgate rules and regulations as necessary for the proper implementation of this section.

History. Acts 2005, No. 2253, § 1.

may not apply to this section, which was enacted subsequently.

A.C.R.C. Notes. References to “this subchapter” in §§ 6-15-401 — 6-15-415

RESEARCH REFERENCES

U. Ark. Little Rock L. Rev. Survey of Legislation, 2005 Arkansas General Assembly, Education Law, 28 U. Ark. Little Rock L. Rev. 347.

6-15-440. Arkansas Leadership Academy School Support Program.

(a)(1) There is created the Arkansas Leadership Academy School Support Program through which the Arkansas Leadership Academy in collaboration with the Department of Education shall provide support to schools or school districts designated by the department as being in school improvement.

(2) The program shall be designed, developed, and administered by the academy created under § 6-15-1007.

(b) The program shall:

(1) Build the leadership capacity of the school and school district;

(2) Train a diverse school leadership team, including, but not limited to, the school principals and teachers;

(3) Provide a cadre of highly experienced, trained performance coaches to work in the school or school district on a regular basis; and

(4) Work with the school and school district staff, school board members, parents, community members, and other stakeholders as necessary to provide a comprehensive support network that can continue the school’s progress and improvement after completion of the academy’s formal intervention and support.

(c)(1) The department and the academy shall develop criteria for selection of schools or school districts to participate in the program.

(2) Any school district that is in school improvement may be invited, strongly encouraged, or required to participate in the program as provided in the rules of the State Board of Education.

(3) The academy and participating schools shall commit to continue participation in the program for no fewer than three (3) consecutive school years.

(d)(1) The number of schools participating in the program shall be determined by the amount of funding available for the program.

(2) The state board or the department may require a school district to fund a portion of the cost of the school’s or school district’s participation in the program if the Commissioner of Education determines

that such participation is in the best interest of the students served by the participating school or school district.

(3) Subject to the approval of the state board, the commissioner shall determine the portion of the school district's financial obligation for participation in the program, if any.

(e) The state board shall promulgate rules as necessary to implement the requirements of this section.

History. Acts 2005, No. 1229, § 1.

SUBCHAPTER 5 — HOME SCHOOLS

SECTION.

6-15-501. Definition.

6-15-502. Rules, regulations, and procedures for monitoring and enforcing provisions.

6-15-503. Prerequisites to home schooling.

6-15-504. Home-schooled students — Achievement tests — Enrollment or reenrollment in local schools.

SECTION.

6-15-505. [Repealed.]

6-15-506. [Repealed.]

6-15-507. Ineligibility of home schools for local, state, or federal funds.

6-15-508. Home schooling prohibited if a sex offender resides in the home.

Cross References. Compulsory attendance, § 6-18-201.

Effective Dates. Acts 1985 (1st Ex. Sess.), Nos. 40, 42, § 11: July 10, 1985. Emergency clause provided: "It is hereby found and determined by the Seventy-Fifth General Assembly meeting in Extraordinary Session that certain parents of school age children are providing educational programs for their children in home schools; that the State of Arkansas does not have adequate statutory provisions concerning the conduct of home schools; that the Arkansas Supreme Court has ruled that educating children at home does not meet the requirements for school attendance set forth in the compulsory attendance laws; that home schooling can be an appropriate educational program for certain children whose parents wish to educate them at home; that the law must be clarified to authorize the education of children in home schools subject to appropriate guidelines established by this Act and the State Board of Education. Therefore, an emergency is hereby declared to exist and this Act being immediately necessary for the preservation of the public peace, health program and safety shall be

in full force and effect from and after its passage and approval."

Acts 1995, No. 522, § 7: Mar. 6, 1995. Emergency clause provided: "It is hereby found and determined by the General Assembly that the immediate implementation of this Act is necessary to clarify requirements for testing home school students as currently required by law and is further necessary to the operation of the Arkansas Department of Education. Therefore, an emergency is hereby declared to exist and this Act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1997, No. 400, § 11: Mar. 7, 1997. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the immediate implementation of this Act is necessary to clarify testing requirements for home-schooled students and is further necessary to efficient operation of the Arkansas Department of Education. Therefore an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective

on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto

the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto.”

RESEARCH REFERENCES

Ark. L. Rev. Note, *Mozert v. Hawkins County Board of Education: The Struggle to Balance Competing Constitutional Interests in the Public School Curricula*, 42 Ark. L. Rev. 519.

U. Ark. Little Rock L.J. Legislative Survey, Education, 8 U. Ark. Little Rock L.J. 569.

CASE NOTES

Constitutionality.

Arkansas Home School Act does not deprive parents of the right to free exercise of religion, the right of due process of law, the right of equal protection of the

laws, and the right of privacy and parental liberty in violation of the United States Constitution. *Murphy v. Arkansas*, 852 F.2d 1039 (8th Cir. 1988).

6-15-501. Definition.

As used in this subchapter, “home school” means a school provided by a parent or legal guardian for his or her own child.

History. Acts 1985 (1st Ex. Sess.), No. 40, § 2; 1985 (1st Ex. Sess.), No. 42, § 2; A.S.A. 1947, § 80-1503.5; Acts 2007, No. 824, § 1.

Amendments. The 2007 amendment deleted “unless the context otherwise re-

quires” and substituted “a school provided by a parent or legal guardian for his or her own child” for “a school primarily conducted by parents or legal guardians for their own children.”

6-15-502. Rules, regulations, and procedures for monitoring and enforcing provisions.

(a) The provisions of § 6-18-201(a) shall be self-executing, and the State Board of Education shall have no authority to promulgate rules, regulations, or guidelines for the enforcement or administration thereof.

(b) The state board is empowered to make such reasonable rules and regulations required for the proper administration of this subchapter which are not inconsistent with the intent of this subchapter.

History. Acts 1985 (1st Ex. Sess.), No. 40, § 7; 1985 (1st Ex. Sess.), No. 42, § 7;

A.S.A. 1947, § 80-1503.10; Acts 1995, No. 1296, § 15; 1997, No. 400, § 1.

6-15-503. Prerequisites to home schooling.

(a)(1) Parents or guardians desiring to provide a home school for their children must give written notice to the superintendent of their local school district of their intent to provide a home school for their children and sign a waiver acknowledging that the State of Arkansas is not liable for the education of their children during the time that the parents choose to home school:

(A) At the beginning of each school year but no later than August 15;

(B) By December 15 for parents who decide to start home schooling at the beginning of the spring semester; or

(C) Subject to the provisions of subsection (d) of this section, fourteen (14) calendar days prior to withdrawing the children from the local school district and at the beginning of each school year thereafter. The superintendent or the local school board of directors may waive the fourteen-day waiting period.

(2) Within thirty (30) calendar days of establishing residency within the school district, parents or guardians moving into the school district during the school year must give written notice to the superintendent of their local school district of their intent to provide a home school for their children and sign a waiver acknowledging that the State of Arkansas is not liable for the education of their children during the time that the parents choose to home school.

(3) The notice must include:

(A) The name, date of birth, grade level, and name and address of the school last attended, if any, of each student involved;

(B) The location of the home school;

(C) The basic core curriculum to be offered;

(D) The proposed schedule of instruction; and

(E) The qualifications of the parent-teacher.

(4) Parents or guardians shall deliver written notice in person to the superintendent of their local school district the first time such notice is given.

(b) This information may be used only for statistical purposes and test administration.

(c) Each local school district shall report the statistical data required by this section to the Department of Education each year.

(d)(1) No public school student shall be eligible for enrollment in a home school if the student is currently under disciplinary action for violation of any written school policy, including, but not limited to, excessive unexcused absences.

(2) Public school students who are under disciplinary action by the local school district shall be eligible for enrollment in a home school if:

(A) The superintendent or local school board of directors chooses to allow the child to enroll in a home school;

(B) The disciplinary action against the student has been completed or the school semester has ended, whichever occurs first; or

(C) The student has been expelled.

History. Acts 1985 (1st Ex. Sess.), No. 260, § 1; 1995, No. 522, § 1; 1997, No. 40, § 3; 1985 (1st Ex. Sess.), No. 42, § 3; 400, § 2; 1999, No. 1117, §§ 1, 2. A.S.A. 1947, § 80-1503.6; Acts 1987, No.

6-15-504. Home-schooled students — Achievement tests — Enrollment or reenrollment in local schools.

(a) Each student enrolled in a home school program who is considered to be at grade level or no more than two (2) years beyond the normal age for the appropriate grade for which the state mandates norm-referenced tests for public school students shall be tested using a nationally recognized norm-referenced achievement test selected by the State Board of Education.

(b)(1)(A) The administration of the tests required of home-schooled students shall be by the executive directors of the education service cooperatives established under § 6-13-1001 et seq. or as otherwise designated by the Department of Education.

(B) For the purposes of this section, the superintendents of the Little Rock School District, North Little Rock School District, and Pulaski County Special School District shall act in lieu of an education service cooperative executive director.

(2) The executive directors of the education service cooperatives shall establish a common set of procedures approved by the Commissioner of Education for the proper administration of the tests required by this section.

(3) The administration shall include purchasing the test materials, giving the tests, scoring and interpreting the tests, and reporting test results.

(c) The cost of testing required by this section shall be the responsibility of the department when the tests are administered by the directors of the education service cooperatives or other department designees.

(d)(1) Alternate testing procedures may be approved by the executive director of an education service cooperative after consultation with the parents of a home-schooled student.

(2) However, any costs associated with an alternate testing procedure shall be the responsibility of the parents.

(e)(1)(A) Any student who refuses to participate in the testing program or the alternate testing program required by this section has not met the statutory prerequisites for home schooling and, as any other student, shall be subject to the applicable Arkansas laws regarding truancy.

(B) After a student corrects any refusal to participate in the testing program or the alternate testing program as determined by the department and required by this subsection, the student shall be restored to home school status after his or her parent or guardian has complied with all requirements of § 6-15-503.

(2) This subsection shall not be applicable to any parent who can present written acknowledgement that the child has been enrolled in a public, private, or parochial school within thirty (30) days of the administration of the state-mandated achievement test.

(f)(1) Each local school district may assess any home-schooled student who enrolls or reenrolls in the school district in order to determine proper educational placement.

(2) Among other means of assessment, the local school district shall utilize the norm-referenced test approved by the state board to assess the student and shall determine placement in the appropriate grade level as indicated by the test results.

(g) Any home-schooled student who enrolls or reenrolls in a local school district must attend classes for at least nine (9) months immediately before graduation before the student can become eligible to receive a high school diploma from the school district.

History. Acts 1985 (1st Ex. Sess.), No. 40, § 4; 1985 (1st Ex. Sess.), No. 42, § 4; A.S.A. 1947, § 80-1503.7; Acts 1995, No. 522, § 2; 1997, No. 400, § 3; 1999, No. 1117, § 3; 2003, No. 1793, § 1; 2007, No. 617, §§ 7, 8.

Amendments. The 2007 amendment inserted "executive" preceding "directors" in (b)(1)(A) and (b)(2); and inserted "executive" preceding "director" in (b)(1)(B); and inserted "executive" preceding "director" in (d)(1).

RESEARCH REFERENCES

Ark. L. Rev. Note, *Mozert v. Hawkins County Board of Education: The Struggle to Balance Competing Constitutional In-*

terests in the Public School Curricula, 42 Ark. L. Rev. 519.

CASE NOTES

Constitutionality.

This section requiring that a standardized test be given to children under the supervision of a test administrator does

not deprive children of the right to free exercise of religion as guaranteed by the First Amendment. *Murphy v. Arkansas*, 852 F.2d 1039 (8th Cir. 1988).

6-15-505. [Repealed.]

Publisher's Notes. This section, concerning report of test results, unsatisfactory results, was repealed by Acts 1997, No. 400, § 4. The section was derived

from Acts 1985 (1st Ex. Sess.), No. 40, § 5; 1985 (1st Ex. Sess.), No. 42, § 5; A.S.A. 1947, § 80-1503.8; Acts 1995, No. 522, § 3.

6-15-506. [Repealed.]

Publisher's Notes. This section, concerning children needing special education, was repealed by Acts 1997, No. 400, § 5. The section was derived from Acts 1985

(1st Ex. Sess.), No. 40, § 6; 1985 (1st Ex. Sess.), No. 42, § 6; A.S.A. 1947, § 80-1503.9.

6-15-507. Ineligibility of home schools for local, state, or federal funds.

- (a)(1) Home schools authorized by this subchapter are not entitled to local, state, or federal funds allocated to a public school district.
- (2) For purposes of this section, eligible children with disabilities identified under the Individuals with Disabilities Education Act, 20 U.S.C. § 1400 et seq., in home school settings shall be given the same consideration afforded to students in private school settings for special education services as provided for in that act.
- (b) School districts providing services to home school students shall be eligible for local, state, or federal funds allocated or approved for such services.

History. Acts 1985 (1st Ex. Sess.), No. 40, § 8; 1985 (1st Ex. Sess.), No. 42, § 8; A.S.A. 1947, § 80-1503.11; Acts 1997, No. 400, § 6; 2003, No. 1793, § 2.

6-15-508. Home schooling prohibited if a sex offender resides in the home.

- (a) No child may be home schooled if any person residing in the home with the child is required to register under the Sex and Child Offender Registration Act of 1997, § 12-12-901 et seq.
- (b) Upon petition to the sentencing court from the child’s parent or guardian, the sentencing court may enter a written order specifically waiving the restriction in subsection (a) of this section.
- (c) This section shall not apply if the child to be home schooled is the person registered under the Sex and Child Offender Registration Act of 1997, § 12-12-901 et seq.

History. Acts 2001, No. 1787, § 1.

RESEARCH REFERENCES

U. Ark. Little Rock L. Rev. Survey of
Legislation, 2001 Arkansas General As-
sembly, Law Enforcement and Emergency

Management, 24 U. Ark. Little Rock L.
Rev. 501.

SUBCHAPTER 6 — RECOGNITION OF EXCELLENCE

SECTION.
6-15-601 — 6-15-605. [Repealed.]

6-15-601 — 6-15-605. [Repealed.]

Publisher’s Notes. This subchapter was repealed by Acts 1999, No. 100, § 8. The subchapter was derived from the following sources:

6-15-601. Acts 1983 (Ex. Sess.), No. 35, § 1; A.S.A. 1947, § 80-4616.
6-15-602. Acts 1983 (Ex. Sess.), No. 35, § 2; A.S.A. 1947, § 80-4617.

6-15-603. Acts 1983 (Ex. Sess.), No. 35, § 4; A.S.A. 1947, § 80-4619; Acts 1991, No. 825, §§ 1-3.

6-15-604. Acts 1983 (Ex. Sess.), No. 35,

§ 3; A.S.A. 1947, § 80-4618.

6-15-605. Acts 1983 (Ex. Sess.), No. 35, § 5; A.S.A. 1947, § 80-4620; Acts 1987, No. 426, § 1.

SUBCHAPTER 7 — OPPORTUNITY PARTNERSHIP PROGRAM

SECTION.

6-15-701 — 6-15-703. [Repealed.]

6-15-701 — 6-15-703. [Repealed.]

Publisher's Notes. This subchapter, concerning the Opportunity Partnership Program, was repealed by Acts 2001, No. 1692, § 1. The subchapter was derived from the following sources:

6-15-701. Acts 1989, No. 611, § 7.

6-15-702. Acts 1989, No. 611, § 7.

6-15-703. Acts 1989, No. 611, § 6.

SUBCHAPTER 8 — ACCOUNTABILITY SECTION

SECTION.

6-15-801 — 6-15-809. [Repealed.]

Effective Dates. Acts 1989, No. 668, § 13: Mar. 20, 1989. Emergency clause provided: "It is hereby found and determined by the General Assembly that a program assessing the performance of Arkansas schools is needed to maintain the public confidence in educational reform in this state; that upon its establishment and funding, the office can begin accumulating necessary indicators of growth; and improvement to supply to all citizens of the state; that in order to establish such a program within the Department of Education, this act needs to become effective immediately upon its passage. Therefore, an emergency is hereby declared and this act being necessary for the preservation of the public health, welfare and safety shall become effective immediately upon passage."

Acts 1991, No. 478, § 5, as added by Acts 1991, No. 1120, § 57: Apr. 9, 1991. Emergency clause provided: "It is hereby found and determined by the Seventy-Eighth General Assembly that it is essential to the effective and efficient operation of the Joint Interim Oversight Subcommittee on Educational Reform of the Joint Interim Committee on Education that the provisions of this Act should be given effect immediately. Therefore, an emer-

gency is hereby declared to exist and this Act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1994 (2nd Ex. Sess.), No. 51, § 9: Aug. 25, 1994. Emergency clause provided: "It is hereby found and determined by the Seventy-Ninth General Assembly of the State of Arkansas, meeting in Second Extraordinary Session, that student discipline is essential to the creation of an optimum learning environment; and that the only place that many individuals are likely to learn self-control and good behavior is in the public schools; and that teachers and administrators in school districts that authorizes corporal punishment should have adequate protection from civil liability, provided only that the corporal punishment is administered in accord with certain procedures. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health, and safety, shall be in full force and effect from and after its passage and approval."

Acts 1995, No. 1197, § 5: July 1, 1995. Emergency clause provided: "It is hereby found and determined by the General As-

sembly that it is essential to the effective and efficient operation of the Joint Interim Oversight Subcommittee on Educational Reform of the Joint Interim Committee on Education that the provisions of this act be given effect on July 1, 1995. Therefore, an emergency is hereby declared to exist and this act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1995."

Acts 1997, No. 112, § 40: Feb. 7, 1997. Emergency clause provided: "It is hereby found and determined by the General Assembly that Act 10 of the First Extraordinary Session of 1995 abolished the Joint Interim Committee on Education and in its place established the House Interim Committee and Senate Interim Committee on Education; that various sections of the Arkansas Code refer to the Joint Interim Committee on Education and should be corrected to refer to the House and Senate Interim Committees on Education; that this act so provides; and that this act should go into effect immediately in order to make the laws compatible as soon as possible. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 1997, No. 232, § 6: Feb. 21, 1997. Emergency clause provided: "It is hereby found and determined by the General Assembly that Act 10 of the First Extraordinary Session of 1995 abolished the Joint Interim Committee on Revenue and Taxation and in its place established the House Interim Committee and Senate Interim Committee on Revenue and Taxation; that various sections of the Arkansas Code refer to the Joint Interim Committee on Revenue and Taxation and should be corrected to refer to the House and Senate Interim Committees on Revenue and Taxation; that this act so provides; and that this act should go into effect immedi-

ately in order to make the laws compatible as soon as possible. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 1997, No. 250, § 258: Feb. 24, 1997. Emergency clause provided: "It is hereby found and determined by the General Assembly that Act 1211 of 1995 established the procedure for all state boards and commissions to follow regarding reimbursement of expenses and stipends for board members; that this act amends various sections of the Arkansas Code which are in conflict with the Act 1211 of 1995; and that until this cleanup act becomes effective conflicting laws will exist. Therefore an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 1997, No. 1354, § 51: Apr. 14, 1997. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act affects the method of selection of alternate members of the Legislative Council and Legislative Joint Auditing Committee and that this act is immediately necessary for proper continuity and efficiency in State government. Therefore an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during

which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective

on the date the last house overrides the veto."

6-15-801 — 6-15-809. [Repealed.]

Publisher's Notes. This subchapter, concerning the Accountability Section, was repealed by Acts 2007, No. 1573, § 46. The subchapter was derived from the following sources:

6-15-801. Acts 1989, No. 668, § 1. [Repealed by Acts 2001, No. 775, § 1.]

6-15-802. Acts 1989, No. 668, § 2; 2001, No. 775, § 2.

6-15-803. Acts 1989, No. 668, § 3; 2001, No. 775, § 3.

6-15-804. Acts 1989, No. 668, § 7; 1997, No. 250, § 15; 1997, No. 1354, § 6; 1997, No. 1357, § 1. [Repealed by Acts 2001, No. 775, § 4 and Acts 2001, No. 783, § 2.]

6-15-805. Acts 1989, No. 668, § 8; 1991,

No. 478, § 1; 1995, No. 1197, § 1; 1997, No. 112, § 4; 1997, No. 232, § 1. [Expired July 1, 2000, pursuant to Acts 1995, No. 1197, § 1.]

6-15-806. Acts 1989, No. 668, § 4; 1994 (2nd Ex. Sess.), No. 51, § 4; 1995, No. 1296, § 16. [Repealed by Acts 2001, No. 775, § 5.]

6-15-807. Acts 1989, No. 668, § 5; 2001, No. 775, § 6.

6-15-808. Acts 1989, No. 668, § 6; 1997, No. 112, § 5.

6-15-809. Acts 1989, No. 668, § 9; 1997, No. 112, § 6. [Repealed by Acts 2001, No. 775, § 7.]

SUBCHAPTER 9 — UNIFORM GRADING SCALE FOR PUBLIC SCHOOLS

SECTION.

6-15-901. Definition.

6-15-902. Grading scale — Exemptions —

SECTION.

Special education classes.

6-15-903. Report cards.

6-15-901. Definition.

For the purposes of this subchapter, "advanced placement course" means a course of instruction that qualifies for college credit and that is approved for credit as a high school course by the State Board of Education.

History. Acts 1991, No. 1070, § 1.

6-15-902. Grading scale — Exemptions — Special education classes.

(a) The following grading scale shall be used by all public secondary schools in the state for all courses, except advanced placement courses and courses offered under the International Baccalaureate Diploma Program:

(1) A = 90-100;

(2) B = 80-89;

(3) C = 70-79;

(4) D = 60-69; and

(5) F = 59 and below.

(b) Each letter grade shall be given a numeric value for the purpose of determining grade average. Except for advanced placement courses, courses offered under the program, and honors courses, the numeric value for each letter grade shall be:

- (1) A = 4 points;
- (2) B = 3 points;
- (3) C = 2 points;
- (4) D = 1 point; and
- (5) F = 0 points.

(c)(1) The State Board of Education shall adopt appropriate equivalents for advanced placement and college courses and shall recommend a uniform grading structure for honors courses.

(2) Weighted credit shall be allowed for advanced placement courses and courses offered under the program if:

(A) The student takes the entire advanced placement course or the entire course offered in the program in a particular subject;

(B) The student completes the applicable test offered by the College Board for advanced placement courses at the end of the advanced placement course, or the applicable test offered by the International Baccalaureate Organization at the time prescribed by the organization; and

(C)(i) The teacher of the advanced placement course meets Arkansas teacher licensure requirements and:

(a) Attends a College Board Advanced Placement Summer Institute no less than one (1) time every five (5) years; or

(b) Completes an additional training plan for advanced placement within three (3) years of commencing the additional training plan; or

(ii) The teacher of the course offered under the program meets Arkansas teacher licensure requirements and attends the training required by the organization.

(3)(A) The local school board of directors may decide whether to adopt a policy to allow high school students in the school district to take college courses for weighted credit equal to the numeric grade awarded in advanced placement courses, courses offered under the program, and honors classes.

(B) If a local school board of directors adopts a policy as set forth in subdivision (c)(3)(A) of this section, the school district must apply to the Department of Education through the Assistant Director for Accountability for approval of courses to be designated "concurrent enrollment college courses". The application shall be reviewed for approval to assign a numeric grade value, which may include weighted credit, based on the following:

(i) A letter from the superintendent of the school district or principal of the school describing how the course exceeds expectations for coursework required under the Standards for Accreditation of Arkansas Public Schools and School Districts; and

(ii) The grade level or levels of students who will be enrolled in the course.

(d) A school district shall have the option of using the grading scale in this section in the school district's elementary schools.

History. Acts 1991, No. 1070, § 1; 1993, No. 1188, § 1; 2001, No. 1121, § 1; 2005, No. 2151, § 14; 2005, No. 2152, § 1.

A.C.R.C. Notes. Pursuant to § 1-2-207, this section is set out above as amended by Acts 1993, No. 1188, § 1. Subsection (a) of this section was amended by Acts 1993, No. 294, § 9 to read as follows:

“(a) The following grading scale shall be used by all public schools in the state for all courses in grades nine (9) through twelve (12), except advanced placement, offered:

“(1) A = 93-100;

“(2) B = 83-92;

“(3) C = 70-82;

“(4) D = 60-69; and

“(5) F = 59 and below.”

Subsection (a) of this section was also amended by Acts 1993, No. 576 to read as follows:

“(a) The following grading scale shall be used by all public schools in the state for all courses, except advanced placement, offered:

“(1) A = 90-100;

“(2) B = 80-89;

“(3) C = 70-79;

“(4) D = 60-69; and

“(5) F = 59 and below.”

Acts 2005, No. 2151, § 14 repealed subsection (d) of this section. The subsection (d) as set out above is former subsection (e) of this section.

Amendments. The 2005 amendment by 2151 repealed (d).

The 2005 amendment by 2152 inserted “courses and ... Diploma Program” in (a); inserted “courses offered under the program” in (b); rewrote (c)(2); and inserted “courses, courses offered under the program” in (c)(3)(A).

6-15-903. Report cards.

(a)(1) Every public school district shall provide a report card for each student reflecting the student's grade in each class in which the student is enrolled.

(2) The report card shall be:

(A) Mailed to the last known address of the student;

(B) Given to a parent at a parent-teacher conference; or

(C) Sent home with the student.

(b) The report card shall be provided at the end of each grading period but no fewer than four (4) times each school year.

(c) Parents shall not be required to provide postage or self-addressed envelopes to receive a report card.

History. Acts 2003 (2nd Ex. Sess.), No. 20, § 1.

SUBCHAPTER 10 — ARKANSAS PUBLIC EDUCATION ACT

SECTION.

6-15-1001. Title.

6-15-1002. Legislative findings.

6-15-1003. Academically competent students.

6-15-1004. Qualified teachers in every public school classroom.

6-15-1005. Safe, equitable, and accountable public schools.

SECTION.

6-15-1006. Assistance and support.

6-15-1007. Arkansas Leadership Academy.

6-15-1008 — 6-15-1010. [Repealed.]

6-15-1011. Rules and regulations.

6-15-1012. Model learning standards in the basic core of knowledge and skills.

Effective Dates. Acts 1999, No. 999, § 16: Mar. 31, 1999. Emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly that the immediate effectiveness of this act is essential to the continuity of public school student assessments, which begin with an early fall testing cycle, and to the efficient operation of the Department of Education and the public schools of this state in making plans for the fall 1999 testing cycle, and that any delay could work irreparable harm to the department, to the local school districts, and to the students. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the

veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 2005, No. 2131, § 38: July 1, 2005. Emergency clause provided: "It is found and determined by the General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 2005 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 2005 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 2005."

6-15-1001. Title.

This subchapter may be cited as the "Arkansas Public Education Act of 1997".

History. Acts 1991, No. 236, § 1; 1997, No. 1108, § 1.

6-15-1002. Legislative findings.

(a) The General Assembly recognizes that students in Arkansas deserve the best education that the citizens can provide and establishes a goal to provide a quality educational opportunity to every public school student in every community and in every school district in the state.

(b) The General Assembly acknowledges that the State of Arkansas must:

- (1) Raise student academic achievement in the basic curriculum;
- (2) Increase the number of students who complete the courses required for graduation; and
- (3) Ensure that students graduate with the knowledge and preparation to be contributing members of society.

(c) The General Assembly further acknowledges that every school district in Arkansas must graduate academically competent students, must have qualified teachers and administrators, must provide a safe,

efficient, and accountable program, and must be supported by and assisted by the state.

(d) The General Assembly finds that in order for all involved in the education of our young people to work to meet this challenge, a revision of existing statutes is necessary.

History. Acts 1991, No. 236, § 1; 1997, No. 1108, § 2.

6-15-1003. Academically competent students.

(a)(1) Arkansas public school students will achieve competency in the basic core of knowledge and skills.

(2) Students will meet required standards in academic areas of the curriculum that will serve as a basis for students to pursue immediate and lifelong educational and employment opportunities.

(3) Students will achieve competency in language arts, writing, spelling, speaking, listening, and reading, math, computation, measurement, probability and statistics, problem solving, basic algebra, data analysis, and geometry concepts, science, physical and life science knowledge and scientific problem solving, and social studies, history, geography, economics, and civic education.

(b)(1) Arkansas public school students will apply practical knowledge and skills.

(2) Students will meet required academic standards in those areas that will better prepare them for lifelong career opportunities.

(3) Students will achieve competency at the local level in computer science and other technologies and in practical economic and consumer skills and will be offered courses in vocational preparation skills.

(c) Arkansas public school students will demonstrate achievement. School districts, schools, and students shall participate in the state assessments in the basic core of knowledge and skills as defined by the Department of Education in the Arkansas Comprehensive Testing, Assessment, and Accountability Program.

History. Acts 1991, No. 236, § 1; 1997, No. 1108, § 3; 1999, No. 999, § 11.

RESEARCH REFERENCES

Ark. L. Rev. Lessons From Lake View: Some Questions and Answers from Lake View School District No. 25 v. Huckabee, 56 Ark. L. Rev. 519 (2003).

U. Ark. Little Rock L. Rev. Annual Survey of Caselaw, Constitutional Law, 25 U. Ark. Little Rock L. Rev. 908.

Note, Constitutional Law — Education and Equal Protection — Towards Intelli-

gence and Virtue: Arkansas Embarks on a Court-Mandated Search for an Adequate and Equitable School Funding System. Lake View School District No. 25 v. Huckabee, 351 Ark. 31, 91 S.W.3d 472 (2002), 26 U. Ark. Little Rock L. Rev. 143 (2003).

CASE NOTES

Adequacy Study.

Many of the standards set forth in *Rose v. Council for Better Education, Inc.*, 790 S.W.2d. 186 (Ky. 1989) as to what constitutes an adequate education were adopted by the General Assembly of the State of Arkansas in § 6-20-302 and this section,

and the school funding system in place between 1994 and 2000 unconstitutionally failed to meet those standards. *Lake View Sch. Dist. No. 25 v. Huckabee*, 351 Ark. 31, 91 S.W.3d 472 (2002), cert. denied, 538 U.S. 1035, 123 S. Ct. 2097, 155 L. Ed. 2d 1066 (2003).

6-15-1004. Qualified teachers in every public school classroom.

(a) Arkansas teachers will demonstrate competency in subject matter content on identified assessments appropriate to their teaching area in order to be granted an initial license to teach in the state.

(b) In order to obtain a teaching license, Arkansas teachers will demonstrate the ability to increase student academic achievement by demonstrating competency on identified assessments of teaching methods that result in increased student achievement.

(c)(1) In order for teachers to be able to renew a license, they must have participated in a continuing education and professional development program based on their school improvement plans, performance evaluation results, and student achievement scores.

(2)(A) For purposes of the requirement for continuing education and professional development under this section, a three-hour graduate-level college credit course shall be counted as fifteen (15) hours of the professional development hours required for teachers under the Standards for Accreditation of Arkansas Public Schools and School Districts if the college credit is:

(i) Related to and enhances the teacher's knowledge of the subject area in which the teacher is currently teaching;

(ii) Part of the requirements for the teacher to obtain additional certification in a subject matter that has been designated by the Department of Education as having a critical shortage of teachers; or

(iii) Otherwise approved by the department as a graduate level course eligible for professional development credit.

(B) Any credit for professional development claimed under subdivision (c)(2)(A) of this section shall be approved by the department.

(C) For purposes of the requirement for continuing education and professional development under this section, each hour of training received by certified personnel related to teaching an advanced placement class for a subject covered by the College Board and Educational Testing Service shall be counted as professional development up to a maximum of thirty (30) hours.

(3) However, nothing in subdivision (c)(2) of this section shall prevent or restrict a school district from requiring additional in-service training.

(d) Effective at the beginning of the 2006-2007 school year, no teacher shall be assigned to teach a grade level or a subject for which he or she is not licensed by the state.

(e)(1) No class of students shall be under the instruction of a substitute teacher or teachers for more than thirty (30) consecutive school days in the same class during a school year unless the substitute teacher or teachers instructing the class have a bachelor's degree awarded by an accredited college or university or have been licensed to teach by the State of Arkansas.

(2) A substitute teacher or teachers possessing a bachelor's degree shall continue to teach the class from at least the thirty-first consecutive day after the regular teacher is absent from the class until the return of the regular teacher to that class.

(f) A person serving as a substitute teacher shall:

(1) Be a high school graduate; or

(2) Hold a graduate equivalent degree.

(g) Subsections (e) and (f) of this section shall not apply to substitutes for nondegreed vocational-technical teachers.

(h)(1) If subsections (e) and (f) of this section impose an undue hardship on a school district, the school district may apply to the State Board of Education for a waiver.

(2) The state board shall develop rules and regulations for granting a waiver.

(3) Any school district granted a waiver from this requirement shall be identified in the department's annual school district report card.

History. Acts 1991, No. 236, § 1; 1993, No. 405, § 1; 1997, No. 1108, § 4; 1999, No. 1382, § 1; 2003, No. 1728, § 1; 2005, No. 1183, § 1; 2005, No. 2131, § 28; 2007, No. 46, § 1; 2007, No. 57, § 1.

Amendments. The 2005 amendment by No. 1183 inserted the subdivision (i) and (ii) designations in (c)(2)(A) and made related changes; substituted "fifteen (15) hours... Arkansas Public Schools" for "twelve (12) hours of professional development" in (c)(2)(A); and added (c)(2)(A)(iii).

The 2005 amendment by No. 2131 added (c)(2)(C).

The 2007 amendment by No. 46, in (e), inserted "or teachers" and substituted "the substitute teacher or teachers instructing the class have" for "that teacher has" in present (1); and added present (2).

The 2007 amendment by No. 57 inserted (f); redesignated part of the provisions of (e) as present (g) and (h); and made related and stylistic changes.

6-15-1005. Safe, equitable, and accountable public schools.

(a)(1) Arkansas schools will have safe and functional facilities.

(2) All school buildings will meet existing state and federal requirements.

(3) Instructional facilities will be designed and structured to support learning.

(b)(1) The school climate will promote student achievement.

(2) Every school and school district will enforce school district policies to ensure the safety of every student during school hours at school-sponsored activities. These policies will include, at a minimum, policies on weapons, violence, tobacco, alcohol, other drugs, gangs, and sexual harassment.

(3) Every school and school district will enforce a code of behavior for students that respects the rights of others and maintains a safe and orderly environment.

(4) Every school and school district will have in place a policy on addressing disruptive students.

(5)(A) Every school and school district will offer appropriate alternative education programs organized to serve those students whose educational progress deviates from the standard expected for a successful transition to a productive life and those students whose behavior interferes with their own learning or the educational process of others.

(B) School districts may serve the needs of these students through regional or cooperative efforts with other school districts.

(c) Local schools will work with parents, families, and business and community members to incorporate responsibility, character, self-discipline, civic responsibility, and positive work habits into adult contacts with students and to promote student demonstration of these behaviors.

(d) Every school will offer opportunities for students to be able to study and participate in the visual and performing arts, health and physical education, and languages.

(e) All public schools will participate in the state school improvement process:

(1)(A) Every school will engage in the collection and analysis of perceptual, archival, and achievement data in order to establish school and school district goals to improve student academic achievement.

(B) Students shall not be surveyed on values and beliefs;

(2) Every school will develop and implement a data-driven school improvement plan based on these analyses that leads to increased student achievement and continuous school improvement; and

(3) Every school will monitor and adjust the plan of action as necessary to promote increased student achievement and continuous school improvement.

(f)(1) All public schools will have a program of parental involvement.

(2) Every school will have a plan for allowing parents to be involved in the education of their children. These plans will address communication with parents, volunteering, learning activities that support classroom instruction, participation in school decisions, and collaboration with the community.

(3) Every school will involve parents in developing school goals and priorities and evaluating the effectiveness of the school improvement plan.

(g)(1) All public schools will be accountable to the public they serve.

(2) All schools will participate in the Arkansas Comprehensive Testing, Assessment, and Accountability Program.

(3) All schools will report to the parents the results of all assessments conducted to measure the achievement progress of their children.

(4) The highest performing schools will be recognized and rewarded. Schools reaching predetermined high levels of achievement will be granted charter status with approval of the charter petition by the Department of Education.

(5) Each school will issue a school achievement report to the community on all state-required assessments.

(h)(1) All public schools will be led by qualified administrators.

(2) All administrators will demonstrate content knowledge in leadership, finance, organization, school climate, curriculum, and evaluation.

(3) In order for administrators to be able to renew a license, they must have participated in a continuing education and professional development program based on their school improvement plans, performance evaluation results, and student achievement scores.

History. Acts 1991, No. 236, § 1; 1995, No. 1296, § 17; 1997, No. 1108, § 5.

6-15-1006. Assistance and support.

(a)(1) The Department of Education will be structured to provide leadership, service, and support to public schools.

(2) Department professional staff will demonstrate mastery of knowledge in learning theory, best educational practices, resource utilization, research and data analysis, school law, instructional leadership, and school administration.

(b)(1) Department staff will conduct, sponsor, participate in, and support continuing education and professional development.

(2) The continuing education and professional development will be based on overall organizational improvement, performance evaluation results, statewide student achievement results, and current educational research and practice.

(c) The department will provide leadership in marshalling support for a quality and equitable educational system in the state. Department resources will be committed to supporting policy development and procedures that enable the Governor, the General Assembly, the State Board of Education, and business and professional organizations to work together in a positive and consistent manner to improve education in Arkansas.

History. Acts 1991, No. 236, § 1; 1993, No. 405, § 2; 1997, No. 1108, § 6.

6-15-1007. Arkansas Leadership Academy.

(a) There is established the Arkansas Leadership Academy.

(b) The academy will provide a variety of training programs and opportunities to develop the knowledge base and leadership skills of school principals, as well as teachers, superintendents and other administrators, and school board members.

(c) The State Board of Education shall have the authority to issue requests for proposals if the state board should determine to change the operator or the location of the academy.

History. Acts 1991, No. 236, § 1; 1997, No. 1108, § 7.

6-15-1008 — 6-15-1010. [Repealed.]

Publisher's Notes. These sections, concerning reorienting the General Education Division of the Department of Education to support restructuring, development of a long-term plan for restructuring Arkansas' education system and a restructuring advisory committee, were repealed by Acts 1997, No. 1108, §§ 8-10. They were derived from the following sources:

6-15-1008. Acts 1991, No. 236, § 1; 1993, No. 405, § 3.
6-15-1009. Acts 1991, No. 236, § 1.
6-15-1010. Acts 1991, No. 236, § 1.

6-15-1011. Rules and regulations.

The State Board of Education shall promulgate rules and regulations necessary for the implementation of this subchapter.

History. Acts 1997, No. 1108, § 11.

6-15-1012. Model learning standards in the basic core of knowledge and skills.

(a) The Department of Education shall identify the learning standards needed in the basic core of knowledge and skills as required of students in the public schools by § 6-15-1003.

(b)(1) Beginning with the 2000-2001 school year, the department shall develop the learning standards into a model format and issue the model standards in pamphlet form describing the standards for the basic core of knowledge and skills in kindergarten through grade eight (K-8). The model shall be prepared for each grade level.

(2) The department shall develop model learning standards for the common core required for graduation in grades nine through twelve (9-12) and shall prepare them in pamphlet format for the high school level.

(c) The department shall make the model standards available to every school district in Arkansas.

(d) Local school districts shall prepare a report in pamphlet form describing the basic core of knowledge and skills prescribed for the schools in their school districts and publish it in enough quantity for all students:

(1) A report shall be prepared for each grade kindergarten through eight (K-8); and

(2) A report for the common core required for graduation from high school shall also be prepared by the local school district for parents of high school students.

(e) Local school districts shall distribute the pamphlets to every parent and guardian of a child in grades kindergarten through twelve (K-12) in the public schools of Arkansas.

History. Acts 1999, No. 911, § 1.

SUBCHAPTER 11 — ATTACHING SEALS TO HIGH SCHOOL TRANSCRIPTS AND DIPLOMAS

SECTION.

6-15-1101. Legislative findings.

6-15-1101. Legislative findings.

(a) The General Assembly hereby recognizes and acknowledges that in recent years a high school diploma has lost credibility as a warranty that the recipient has the basic knowledge and skills necessary for either an entry-level job or for postsecondary education. The General Assembly further recognizes that the State Board of Education, the Department of Education, and local school districts have worked diligently to establish and implement a core curriculum in Arkansas secondary schools. Students who complete the core curriculum with a satisfactory grade point average should receive recognition for both perseverance and a job well done. It is the purpose of this legislation to both further that recognition and to increase the confidence of Arkansans in the value of diplomas awarded by the state's public schools.

(b) Beginning with the 1994-1995 school year, a school district shall attach a seal, stamp, or other symbol to transcripts and diplomas awarded to high school students who have completed the core curriculum with a minimum grade point average of 2.75 on a 4.0-point scale.

(c) The state board is authorized to promulgate rules and regulations for the implementation of this section.

History. Acts 1993, No. 688, §§ 1, 2; 1995, No. 1296, § 18; 1997, No. 977, § 1.

SUBCHAPTER 12 — EDUCATIONAL STANDARDS COMMISSION

SECTION.

6-15-1201. Creation — Composition —

Terms — Powers and duties.

6-15-1201. Creation — Composition — Terms — Powers and duties.

(a) The Department of Education is directed to create an Education Standards Commission which shall be composed of the following individuals:

(1) One (1) kindergarten through grade three (K-3) classroom teacher;

(2) One (1) grade four through six (4-6) classroom teacher;

(3) One (1) grade seven through nine (7-9) classroom teacher;

- (4) One (1) grade ten through twelve (10-12) classroom teacher;
- (5) One (1) counselor;
- (6) One (1) vocational teacher;
- (7) One (1) elementary school administrator;
- (8) One (1) secondary school administrator;
- (9) One (1) superintendent;
- (10) One (1) school board member;
- (11) Two (2) parents of public school students; and
- (12) Two (2) representatives of the business community.

(b) The Commissioner of Education shall appoint the teacher representatives from a list submitted by the Arkansas Education Association, the administrator representatives from a list submitted by the Arkansas Association of Educational Administrators, the school board members from a list submitted by the Arkansas School Boards Association, the counselor from a list submitted by the Arkansas Counseling Association, the vocational teacher from a list submitted by the Arkansas Vocational Education Association, the parent representatives from a list submitted by the Arkansas Parent Teacher Association, and the business representatives from a list submitted by the Arkansas Business and Education Alliance.

(c) Members of the commission shall serve four-year terms on a staggered basis.

(d) The commission shall regularly review the regulations, criteria, and minimum standards used by the State Board of Education and the department at least once every two (2) years. Recommendations for changes in the regulations, criteria, and minimum standards shall be presented by the commission to the state board for its consideration.

History. Acts 1997, No. 1340, §§ 1-4.
A.C.R.C. Notes. Former §§ 6-15-1202 — 6-15-1204 are now codified as subsections (b)-(d) of this section.
Acts 1997, No. 1340, § 3, also provided in part: “The initial appointees shall draw

lots to determine the lengths of their terms.”
Publisher’s Notes. Acts 1997, No. 1340 became law without the Governor’s signature.

SUBCHAPTER 13 — SAFE SCHOOLS COMMITTEE

SECTION.	SECTION.
6-15-1301. Creation — Composition — Powers and duties.	6-15-1302. Emergency plans for terrorist attacks.

6-15-1301. Creation — Composition — Powers and duties.

- (a) The Department of Education is directed to create a Safe Schools Committee.
- (b)(1) The Safe Schools Committee shall be composed of the following individuals:
 - (A) Two (2) classroom teachers appointed by the Arkansas Education Association;

(B) Two (2) school administrators appointed by the Arkansas Association of Educational Administrators;

(C) Two (2) school board members appointed by the Arkansas School Boards Association;

(D) A staff member of the department appointed by the Commissioner of Education;

(E) A school safety specialist employed by an Arkansas school district appointed by the commissioner;

(F) One (1) school counselor appointed by the Arkansas Counseling Association; and

(G) One (1) additional person knowledgeable in the field of school safety appointed by the commissioner.

(2) The Chairs of the House Interim Committee on Education and the Senate Interim Committee on Education or their designees shall serve as ex officio members of the committee.

(c) The committee is charged with the following responsibilities:

(1)(A) To develop model policies and procedures that may ensure a safe and productive learning environment for students and school employees for recommendation to school districts. The procedures shall focus on ensuring the security of students and school employees and shall include techniques for prevention, intervention, and conflict resolution.

(B)(i) The model policies and procedures shall include emergency plans for terrorist attacks, specifically including contingency plans for attacks using biological agents, nerve gas or similar chemical agents, and war.

(ii) To the extent practicable, the model plans should include practice drills;

(2) To recommend to the State Board of Education any necessary rules and regulations for ensuring a safe school environment; and

(3) To recommend to the House Interim Committee on Education and the Senate Interim Committee on Education any necessary legislation for ensuring a safe school environment.

History. Acts 1997, No. 1346, §§ 1-3; 2003, No. 648, § 1.

A.C.R.C. Notes. Former §§ 6-15-1302 and 6-15-1303 are now codified as subsec-

tions (b) and (c) of this section.

Publisher's Notes. Acts 1997, No. 1346 became law without the Governor's signature.

RESEARCH REFERENCES

U. Ark. Little Rock L. Rev. Survey of Legislation, 2003 Arkansas General As-

sembly, Education Law, School Rules, 26 U. Ark. Little Rock L. Rev. 383.

6-15-1302. Emergency plans for terrorist attacks.

(a) On or before January 1, 2004, every school district shall develop plans to provide for the safety of employees and students in the event of a war or terrorist attack affecting the school, specifically including

contingency plans for attacks using a biological agent or nerve gas or similar chemical agents.

(b) To the extent practicable, students should participate in practice drills executing the plans.

History. Acts 2003, No. 648, § 2.

SUBCHAPTER 14 — SCHOOL PERFORMANCE REPORT ACT

SECTION.

6-15-1401. Title.

6-15-1402. Purpose — Report — Confidentiality — Rules and regulations.

Effective Dates. Acts 2003, No. 1473, § 74: July 1, 2003. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act includes technical corrects to Act 923 of 2003 which establishes the classification and compensation levels of state employees covered by the provisions of the Uniform Classification and

Compensation Act; that Act 923 of 2003 will become effective on July 1, 2003; and that to avoid confusion this act must also effective on July 1, 2003. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2003.”

6-15-1401. Title.

This subchapter shall be known as and may be cited as the “School Performance Report Act”.

History. Acts 1999, No. 769, § 1.

6-15-1402. Purpose — Report — Confidentiality — Rules and regulations.

(a) In order to generally improve public school accountability, to provide benchmarks for measuring individual school improvement, and to empower parents and guardians of children enrolled in Arkansas public schools by providing them with the information to judge the quality of their schools, the Department of Education shall annually prepare and publish a school performance report for each individual public school in the state, including the Arkansas School for the Deaf, the Arkansas School for the Blind, and the Arkansas School for Mathematics, Sciences, and the Arts, and shall distribute the report to every parent or guardian of a child in kindergarten through grade twelve (K-12) in the public schools of Arkansas.

(b)(1) The annual school performance report shall be based on reliable statistical information uniformly required to be collected and submitted by each local school district to the department and shall be

published in a format that can be easily understood by parents or guardians who are not professional educators and distributed to the parents or guardians of children enrolled in the public schools via the postal service. Individual school reports shall also be made available via the Internet. The information necessary to produce the school performance report, including the names and addresses of parents and guardians, shall be filed with the department. The department is strongly encouraged to contract with individuals or businesses knowledgeable in the areas of graphic and computer design to ensure that the school performance reports required by this subchapter are published in a format that encourages their utilization by the citizens of the state. The department may enter into a contract arrangement with other parties in order to provide appropriate printing and distribution services.

(2) The report for elementary schools shall:

(A) Include three-year trend data and allow parents or guardians to compare the school's performance with state and national averages in areas and shall include, but not be limited to, the following measures:

- (i) School safety;
- (ii) Norm-referenced test results;
- (iii) Augmented, criterion-referenced, or norm-referenced assessment results;
- (iv) Certified staff qualifications;
- (v) Total per pupil spending;
- (vi) Assessment of the local taxpayer investment in the school district;
- (vii) Percentage of students eligible to receive free or reduced-price meals;
- (viii) Average salary of the staff; and
- (ix) Average attendance rates for students; and

(B) Indicate separately whether:

- (i) The school distributed the school's student discipline policy to parents;
- (ii) The school's teachers, administrators, classified school employees, and volunteers have been provided with appropriate student discipline training; and
- (iii) The school district has adopted a parental involvement plan in compliance with § 6-15-1702.

(3) The report for middle schools, junior high schools, and high schools shall:

(A) Include three-year trend data and allow parents or guardians to compare the school's performance with state and national averages in areas which shall include, but not be limited to, the following:

- (i) School safety;
- (ii) Norm-referenced test results;
- (iii) Augmented criterion-referenced assessment results;
- (iv) Certified staff qualifications;

- (v) Per pupil spending;
- (vi) Assessment of the local taxpayer investment in the school district;
- (vii) Percentage of students eligible to receive free or reduced-price meals;
- (viii) Average salary of the staff;
- (ix) Average attendance rates for students;
- (x) Drop-out rate;
- (xi) Graduation or completion rates;
- (xii) College remediation rate for high schools only; and
- (xiii) Collegiate admission test results; and
- (B) Indicate separately whether:
 - (i) The school distributed the school's student discipline policy to parents;
 - (ii) The school's teachers, administrators, classified school employees, and volunteers have been provided with appropriate student discipline training; and
 - (iii) The school district has adopted a parental involvement plan in compliance with § 6-15-1702.
- (c) School districts may prepare and distribute supplemental materials concerning the information contained in the school performance reports.
- (d) The department is encouraged to include with school performance reports explanatory material regarding efforts to improve the state's public schools. The department is also encouraged to explore the feasibility of incorporating the school improvement plans developed by schools and school districts with the school performance reports.
- (e) The school performance report shall not include individual student information if the information is reported in a manner which would identify a particular student.
- (f) The department shall not disclose parent or guardian names, addresses, or other identifying information under any circumstances, and the department shall require any vendor, contractor, or supplier utilized to provide services under this subchapter to sign a confidentiality agreement that shall prohibit the disclosure of parent or guardian names, addresses, or other identifying information.
- (g) The Arkansas School for the Blind and the Arkansas School for the Deaf shall submit to the department the results of the appropriately adopted student achievement tests for the students enrolled at these schools. In addition, the Arkansas School for the Blind and the Arkansas School for the Deaf shall submit to the department a list of other schools' programs to which these schools can be compared.
- (h) The department is authorized to promulgate rules and regulations reasonably necessary to carry out the purposes of this subchapter regarding the annual school performance report.
- (i) The department shall issue the annual school performance report no later than March 15 of each school year.

History. Acts 1999, No. 769, § 2; 2001, No. 775, § 8; 2003, No. 603, §§ 3, 4; 2003, No. 1473, § 5; 2007, No. 1573, §§ 12, 13.

Amendments. The 2007 amendment substituted “Augmented, criterion-refer-

enced, or norm-referenced assessment” for “Criterion-referenced test” in (b)(2)(A)(iii), and substituted “Augmented criterion-referenced assessment” for “Criterion-referenced test” in (b)(3)(A)(iii).

SUBCHAPTER 15 — COMPREHENSIVE PLAN FOR CONSISTENCY AND RIGOR IN COURSE WORK

SECTION.

6-15-1501. [Repealed.]

6-15-1502. Revisions, compliance, and implementation.

6-15-1503. State-mandated exams.

SECTION.

6-15-1504. Review.

6-15-1505. School district implementation.

6-15-1506. Rules and regulations.

6-15-1501. [Repealed.]

A.C.R.C. Notes. Pursuant to § 1-2-207, the amendment to this section by Acts 2003, § 1116, § 1, was superseded by the repeal of this section by No. 1761, § 1.

Publisher's Notes. This section, con-

cerning development, compliance and implementation, was repealed by Acts 2003, No. 1761, § 1. The section was derived from Acts 2001, No. 1559, § 1.

6-15-1502. Revisions, compliance, and implementation.

(a) The State Board of Education shall develop a comprehensive plan to review and revise the Arkansas Academic Content Standards and Curriculum Frameworks process.

(b) The plan shall be a comprehensive plan to provide an external review of content standards and curriculum frameworks adopted by the state in core academic areas of reading, writing, mathematics, science, history, geography, civics, and other courses identified by the State Board of Education as state-mandated graduation requirements.

(c) In developing the plan, the State Board of Education shall conduct a full review of available and relevant academic content standards and curriculum frameworks that are rigorous, specific, sequenced, clear, focused, and measurable, whenever possible.

(d)(1) The review shall be to determine whether the Arkansas Academic Content Standards and Curriculum Frameworks are designed to:

(A) Reflect high expectations for students and an in-depth mastery of the content;

(B) Be clearly grounded in the content of each academic area;

(C) Be defined grade-by-grade and in each content area;

(D) Be understandable to parents and teachers;

(E) Be developed in full recognition of the time available to teach the core academic areas at each grade level; and

(F) Be measurable, whenever possible, in a reliable, valid, and efficient manner for accountability purposes.

(2) The plan shall include a process for the review of curriculum offerings to ensure that low-level general education tracts offered by

school districts are eliminated before the beginning of the 2003-2004 school year.

(3) High school course content standards and curriculum frameworks set forth in the plan shall include the knowledge and skills necessary to enter the work force and also shall be aligned with the coursework required for admission to the state’s institutions of post-secondary education.

(e) Upon completion of the review, the State Board of Education shall revise all curriculum frameworks and supplemental materials that are recommended as a result of the review.

(f) As part of the revision process, the State Board of Education shall revise and make available to teachers and parents support materials, including teacher and parent guides, for academic content standards and curriculum frameworks that are specifically recommended for revision as a result of the review.

(g) The State Board of Education shall work in collaboration with the Arkansas Higher Education Coordinating Board and the Executive Council to ensure that teacher and school administrator degree programs, ongoing professional development, and other university activity in the state’s public schools align with the revised Arkansas Academic Content Standards and Curriculum Framework process and other educational priorities of the state.

History. Acts 2003, No. 1761, § 2.

RESEARCH REFERENCES

U. Ark. Little Rock L. Rev. Survey of ssembly, Education Law, Academic Stan-
Legislation, 2003 Arkansas General As- dards, 26 U. Ark. Little Rock L. Rev. 385.

6-15-1503. State-mandated exams.

(a)(1) The State Board of Education shall ensure that any revisions made to the Arkansas Academic Content Standards and Curriculum Framework process is to be aligned to the state assessment system for core academic areas of reading, writing, mathematics, science, and social studies as funding permits.

(2) All end-of-course tests shall be aligned with the content standards and curriculum frameworks.

(b) All other components of the Arkansas Comprehensive Testing, Assessment, and Accountability Program should be aligned with the Arkansas Academic Content Standards and Curriculum Framework process.

History. Acts 2003, No. 1761, § 2.

6-15-1504. Review.

(a) The Department of Education shall review the Arkansas Academic Content Standards and Curriculum Framework process plan on its State Board of Education-approved revision cycle and report to the State Board of Education annually.

(b)(1) The State Board of Education shall align state programs and support materials with the revised academic content standards and curriculum frameworks for each core academic area.

(2) Alignment shall include revision of textbook criteria, support materials, state tests, teacher and school administrator preparation, and ongoing professional development programs to be compatible with content standards and curriculum frameworks.

(c) The State Board of Education shall revise and make available to teachers and parents support materials, including teacher and parent guides, for academic content standards and curriculum frameworks as set forth in the plan each time the plan is revised under subsection (a) of this section.

(d) The State Board of Education shall develop a plan to ensure regular collaboration with the Arkansas Higher Education Coordinating Board and the Executive Council to encourage teacher and school administrator degree programs and ongoing professional development and to ensure that other university activity in the state's public schools aligns with the State Board of Education's priorities.

History. Acts 2003, No. 1761, § 2.

6-15-1505. School district implementation.

(a) Beginning with the 2003-2004 school year, each local school district shall establish procedures and monitoring processes to ensure that the content of each course offered by the school district is consistent with content standards and curriculum frameworks developed by the State Board of Education.

(b) The superintendent of each school district shall provide to the Department of Education, by October 1 of each year following the adoption of the plan under subsection (a) of this section, a written statement of assurance that the content of each class and subject area, as required by the Standards for Accreditation of Arkansas Public Schools and School Districts regardless of levels, is aligned to content standards and curriculum frameworks developed by the state board in the plan.

(c) The department shall monitor, during the standards review visit, documentation related to the plan.

(d) If the department determines that a school district has failed to align the content of each class and subject area as required by the state board to content standards and curriculum frameworks developed by the state board, the department shall:

(1) Note the failure to comply in the annual school performance report under § 6-15-1402; and

(2) Cite the failure to comply of each school on the Standards for Accreditation of Arkansas Public Schools and School Districts Annual Report.

History. Acts 2003, No. 1761, § 2.

6-15-1506. Rules and regulations.

Before December 31, 2003, the State Board of Education shall promulgate appropriate rules and regulations necessary to carry out this subchapter.

History. Acts 2003, No. 1761, § 2.

SUBCHAPTER 16 — COMMITTEE ON CLOSING THE ACHIEVEMENT GAP IN ARKANSAS

SECTION.	SECTION.
6-15-1601. Establishment of Commission on Closing the Achievement Gap in Arkansas — Members.	failure — Personal education plans.
6-15-1602. Students who have been placed at risk of academic	6-15-1603. Establishment of local task forces on closing the achievement gap.
	6-15-1604. [Repealed.]

6-15-1601. Establishment of Commission on Closing the Achievement Gap in Arkansas — Members.

(a) There is established a commission to be known as the “Commission on Closing the Achievement Gap in Arkansas”.

(b) The commission shall consist of twelve (12) members representing the racial and ethnic diversity of Arkansas as follows:

(1)(A) Four (4) persons appointed by the Governor.

(B)(i) One (1) of the Governor’s appointees shall be a member of the faculty of an historically black college in the state who has demonstrated an interest in and commitment to working with disadvantaged youth.

(ii) One (1) of the Governor’s appointees shall be an Hispanic who has demonstrated a commitment to education.

(iii) One (1) of the Governor’s appointees shall be a representative of business and industry in Arkansas.

(iv) One (1) of the Governor’s appointees may be a representative of health and human services or a public school teacher;

(2)(A) Four (4) persons appointed by the President Pro Tempore of the Senate.

(B)(i) One (1) of the President Pro Tempore’s appointees shall be a member of the faculty of an historically black college in the state.

(ii) One (1) of the President Pro Tempore’s appointees shall be a minority who has demonstrated a commitment to education; and

(3)(A) Four (4) persons appointed by the Speaker of the House of Representatives.

(B)(i) One (1) of the Speaker of the House of Representatives' appointees shall be a person who has experience working with children from low income families.

(ii) One (1) of the Speaker of the House of Representatives' appointees shall be a minority who has demonstrated a commitment to education.

(c)(1) Upon taking office, the initial members shall draw lots to determine the length of their terms.

(2) The term of office shall be for no more than four (4) years.

(3) Appointments shall be for a term of four (4) years.

(d)(1) If a vacancy occurs in an appointed position for any reason, the vacancy shall be filled in the same manner as the original appointment.

(2) The new appointee shall serve for the remainder of the unexpired term.

(e)(1) The Governor shall designate one (1) of his or her appointees to serve as chair for the first year.

(2) Thereafter, the commission members shall annually elect a chair from among themselves.

(f)(1) The commission shall meet at times and places the chair deems necessary but no fewer than four (4) times per calendar year.

(2) Commission members shall attend all meetings with no more than one (1) unexcused absence.

(3) No meetings shall be held outside the State of Arkansas.

(4) A majority of the members of the commission shall constitute a quorum for the purpose of transacting business.

(5) All actions of the commission shall be by a majority vote of the full membership of the commission.

(g) The commission shall:

(1) Develop a plan for the state designed to enable all public school students to meet the state's student academic achievement standards while working toward the goal of narrowing the achievement gaps in public schools for the following subgroups:

(A) Economically disadvantaged students; and

(B) Students from major racial and ethnic groups;

(2) Monitor the Department of Education's efforts to comply with federal guidelines on improving the academic achievement of the disadvantaged, specifically including, but not limited to, the No Child Left Behind Act of 2001;

(3)(A) Monitor the department's identification of population groups to be motivated in closing the achievement gap efforts.

(B) The commission may expand the role and scope of the commission to cover specific population groups as identified by the department as target groups for closing the achievement gaps; and

(4) File a report with the chairs of the House Interim Committee on Education and the Senate Interim Committee on Education, the Governor, and the State Board of Education no later than November 1 of each year.

(h) At the discretion of the Commissioner of Education, the state shall provide resources necessary for the following:

(1) Relevant training for commission members in research-based strategies to close the achievement gap;

(2) Relevant technical experts to assist in drafting and monitoring the department's efforts to comply with federal guidelines on improving the academic achievement of the disadvantaged, specifically including without limitation the No Child Left Behind Act of 2001;

(3) Travel reimbursements for meetings;

(4) Space and resources to conduct public forums; and

(5) Printing and copying costs.

(i) The commission may study and address topics, including, but not limited to:

(1) Understanding children of poverty;

(2) Successful strategies with students of poverty;

(3) Teacher preparation for student diversity;

(4) Response to language diversity;

(5) Methods of hiding the achievement gap;

(6) Success stories;

(7) Obstacles to overcome in closing the achievement gap;

(8) Alternative intervention strategies for closing the achievement gap;

(9) Leadership challenges in closing the achievement gap;

(10) The role of parents, families, and caregivers in closing the achievement gap;

(11) Parental and community diversity;

(12) The relationship of school to environment and student;

(13) The role of school and class size in achievement;

(14) Conditional barriers to student access to additional learning opportunities; and

(15) The profile of underachieving students.

(j) The commission may fund a study on research-based and proven strategies that close achievement gaps among racial, ethnic, and high-poverty groups.

(k)(1) The department shall provide meeting space and clerical support as needed by the commission.

(2)(A) Members of the commission shall serve without pay.

(B) Members of the commission may receive expense reimbursement in accordance with § 25-16-902, to be paid with funds allocated by the state for that purpose.

History. Acts 2003, No. 1777, § 1; 2003 (2nd Ex. Sess.), No. 33, § 1; 2007, No. 1002, § 1.

Amendments. The 2007 amendment inserted "representing the racial and ethnic diversity of Arkansas" in (b); inserted "initial" in (c)(1); rewrote (c)(2); substituted "Appointments" for "Subsequent appointments" in (c)(3); added (f)(2) and redesignated the remaining subdivisions

accordingly; added (h) and redesignated the remaining subsections accordingly; added (j); and substituted "with funds allocated by the state for that purpose" for "by the department to the extent that money is available" in present (k)(2)(B).

U.S. Code. The No Child Left Behind Act of 2001, referred to in (g)(2)(A), is codified as 20 U.S.C. § 6301 et seq.

6-15-1602. Students who have been placed at risk of academic failure — Personal education plans.

(a)(1) Local school districts shall identify students in all grades who have been placed at risk of academic failure and shall implement a personal education plan for academic improvement with focused intervention and performance benchmarks.

(2) Identification shall occur as early as can reasonably be done and can be based on grades, observations, and other factors that teachers and administrators consider appropriate without having to await the results of end-of-grade or end-of-course tests.

(b)(1) At the beginning of the school year, a personal education plan shall be developed for any student not performing at least at grade level, as identified by the state end-of-grade test.

(2) If a student's performance appears to be falling below state proficiency standards at any time during the school year, a personal education plan shall be developed.

(c) Focused intervention and acceleration activities may include, among other things, summer school, Saturday school, and extended days.

(d) Local school districts shall provide the activities identified in subsection (c) of this section, and transportation, free of charge to students.

History. Acts 2003, No. 1777, § 2.

6-15-1603. Establishment of local task forces on closing the achievement gap.

(a)(1) The State Board of Education shall adopt a policy for local school districts to establish local task forces on closing the achievement gap.

(2) The purpose of each task force is to advise and work with its local board of directors and administration on closing the gap in academic achievement and on developing a collaborative plan for achieving that goal.

(b) The policy shall include the following:

(1) Each task force shall report to its local board of directors;

(2) Each task force shall include key stakeholders in the community who are committed to improving the education of all children, especially those who are underachieving, and who agree to attend task force meetings on a regular basis, take an active role in discussions and activities, listen to the ideas, suggestions, and comments of other task force members as well as community members, inform other members of the school and community of the work of the task force, participate in any training for the task force members such as consensus building, problem-solving, and group dynamics, and seek actively data-driven solutions to improving the achievement of all students; and

(3) Task force members shall be representative of community demographics, race, ethnic, gender, and socioeconomic diversity. It is strongly recommended that they include:

(A)(i) Three (3) parents, as selected by the local school district's parent organization.

(ii) One (1) parent who has a child at an elementary school, one (1) who has a child at a junior high or middle school, and one (1) who has a child at a high school;

(B) School administrators, teachers, instructional support personnel, exceptional children personnel, and second language specialists, each of whom shall be selected by the superintendent;

(C) One (1) member of the local board of education, as selected by that board;

(D) One (1) representative of the local department of social services;

(E) At least one (1) juvenile court counselor;

(F) At least one (1) representative of local law enforcement;

(G) One (1) representative of the local Communities in Schools Program, if present in the local school district, as selected by the executive director of that program;

(H) At least one (1) representative of local businesses, as selected by the local chamber of commerce;

(I) Representatives from community-based organizations, as selected by the superintendent upon recommendation from those organizations;

(J) At least one (1) representative of a university school of education, if there is one in the area, as selected by the chair of the local board of education;

(K) Two (2) high school students, as recommended by their student councils and elected by the chair of the local board of education; and

(L) Any other community representatives, as selected by the superintendent.

(c) The superintendent shall name the chair of the task force, who shall call the first meeting of the task force.

(d) Each task force shall:

(1) Decide on training that it may need;

(2) Determine what information and data the task force will need, plan and schedule presentations on the information and data which shall be disaggregated by race, ethnicity, gender, and socioeconomic status. Examples may include state test data, discipline statistics, teacher-student ratio, student and teacher attendance data, faculty composition by race, gender, ethnicity, and professional preparation of educators;

(3) Define the communication process and person responsible for disseminating information to the public. Communication shall include the posting of information on a website and shall provide appropriate translations, as needed;

(4) Establish a policy statement on closing the achievement gap for the local school administrative unit. This statement shall address why closing the achievement gap is important to the entire community;

(5)(A) Set aside specific meetings to analyze and synthesize data and information.

(B) The task force shall use the data to identify and prioritize the problems with student achievement;

(6) Identify and review current effective programs and instructional strategies that address student achievement needs, identify criteria used to determine their effectiveness, determine changes to improve the effectiveness, identify gaps in services, and identify needed information to determine research-based programs and strategies that are effective in addressing the gaps; and

(7) Develop a report to the school and community that includes an implementation plan, benchmarks, and the monitoring process.

(e)(1) Each task force may establish subcommittees to research answers to the critical questions.

(2) If subcommittees are established, they shall present their findings to the full task force.

History. Acts 2003, No. 1777, § 3.

6-15-1604. [Repealed.]

Publisher's Notes. This section, concerning reporting dropout rates, suspensions, expulsions, and alternative placements, was repealed by Acts 2007, No.

1573, § 50. The section was derived from Acts 2003, No. 1777, § 4; 2003 (2nd Ex. Sess.), No. 33, § 2.

SUBCHAPTER 17 — PARENTAL INVOLVEMENT PLAN

SECTION.

6-15-1701. Findings.

6-15-1702. Parental involvement plan.

6-15-1703. Staff development.

6-15-1704. Annual review of parental involvement plans.

SECTION.

6-15-1705. Incorporation of parental involvement into teacher education programs.

6-15-1701. Findings.

The General Assembly recognizes that:

(1) A child's education is a responsibility shared by the school and family during the entire time the child spends in school;

(2) To support the goal of the schools to educate all students effectively, the schools and parents must work as knowledgeable partners;

(3) Although parents are diverse in culture, language, and needs, they are an integral component of a school's ability to provide for the educational success of their children;

(4) Engaging parents is essential to improve student achievement; and

(5) Schools should foster and support active parental involvement.

History. Acts 2003, No. 603, § 1.

6-15-1702. Parental involvement plan.

(a) Each public school district and each public school within its boundaries, in collaboration with parents, shall establish a parental involvement plan, including programs and practices that enhance parental involvement and reflect the specific needs of students and their families.

(b) The parental involvement program in each school shall:

(1) Involve parents of students at all grade levels in a variety of roles;

(2) Be comprehensive and coordinated in nature;

(3)(A) Recognize that communication between home and school should be regular, two-way, and meaningful.

(B) To encourage communication with parents, the school shall prepare an informational packet to be distributed annually to the parent of each child in the school, appropriate for the age and grade of the child, describing:

(i) The school's parental involvement program;

(ii) The recommended role of the parent, student, teacher, and school;

(iii) Ways for the parent to become involved in the school and his or her child's education;

(iv) A survey for the parent regarding his or her interests concerning volunteering at the school;

(v) Activities planned throughout the school year to encourage parental involvement; and

(vi) A system to allow the parents and teachers to communicate in a regular, two-way, and meaningful manner with the child's teacher and the school principal.

(C) The school may plan and engage in other activities determined by the school to be beneficial to encourage communication with parents;

(4)(A) Promote and support responsible parenting.

(B) To promote and support responsible parenting, the school shall, as funds are available:

(i) Purchase parenting books, magazines, and other informative material regarding responsible parenting through the school library, advertise the current selection, and give parents an opportunity to borrow the materials for review;

(ii) Create parent centers; and

(iii) Plan and engage in other activities determined by the school to be beneficial to promoting and supporting responsible parenting;

(5)(A) Acknowledge that parents play an integral role in assisting student learning.

(B) To help parents in assisting students, the school shall:

(i) Schedule regular parent involvement meetings at which parents are given a report on the state of the school and an overview of:

- (a) What students will be learning;
- (b) How students will be assessed;
- (c) What parents should expect for their child's education; and
- (d) How a parent can assist and make a difference in his or her child's education; and

(ii) Engage in other activities determined by the school to help a parent assist in his or her child's learning;

(6)(A) Welcome parents into the school and seek parental support and assistance.

(B) To welcome parents into the school, the school shall:

(i) Not have any school policies or procedures that would discourage a parent from visiting the school or from visiting a child's classrooms;

(ii) Encourage school staff to use the volunteer surveys to compile a volunteer resource book listing the interests and availability of volunteers so that school staff may:

(a) Determine how frequently a volunteer would like to participate, including the option of just one (1) time per year;

(b) Include options for those who are available to help at home; and

(c) Help match school needs with volunteer interests; and

(iii) Engage in other activities determined by the school to welcome parents into the school;

(7)(A) Recognize that a parent is a full partner in the decisions that affect his or her child and family.

(B) To encourage a parent to participate as a full partner in the decisions that affect his or her child and family, the school shall:

(i) Include in the school's policy handbook the school's process for resolving parental concerns, including how to define a problem, whom to approach first, and how to develop solutions;

(ii) Sponsor seminars to inform the parents of high school students about how to be involved in the decisions affecting course selection, career planning, and preparation for postsecondary opportunities; and

(iii) Engage in other activities that the school determines will encourage a parent to participate as a full partner in the decisions that affect his or her child and family;

(8)(A) Recognize that community resources strengthen school programs, family practices, and student learning;

(B) To take advantage of community resources, the school shall:

(i) Consider recruiting alumni from the school to create an alumni advisory commission to provide advice and guidance for school improvement;

(ii)(a) Enable the formation of a Parent Teacher Association or organization that will foster parental and community involvement within the school.

(b) Leaders of this organization shall be utilized in appropriate decisions affecting the children and families; and

(iii) Engage in other activities that the school determines will use community resources to strengthen school programs, family practices, and student learning; and

(9) Support the development, implementation, and regular evaluation of the program to involve parents in the decisions and practices of the school district, using, to the degree possible, the components listed in this section.

(c)(1) The principal of each school in a school district shall designate one (1) certified staff member who is willing to serve as a parent facilitator to:

(A) Help organize meaningful training for staff and parents;

(B) Promote and encourage a welcoming atmosphere to foster parental involvement in the school; and

(C) Undertake efforts to ensure that parental participation is recognized as an asset to the school.

(2) The certified staff member serving as a parental facilitator shall receive supplemental pay for the assigned duties as required by law.

History. Acts 2003, No. 603, § 1; 2007, No. 307, § 1.

Amendments. The 2007 amendment deleted “By September 1, 2003” from the beginning of (a); rewrote the introductory paragraph of (b)(3)(B); inserted present (b)(3)(B)(iv) and redesignated the remaining subdivisions accordingly; deleted

former (b)(3)(C) and redesignated former (b)(3)(D) as present (b)(3)(C); inserted “as funds are available” in the introductory language of (b)(4)(B); deleted (b)(4)(B)(ii) and redesignated the remaining subdivisions accordingly; rewrote the introductory paragraph of (b)(5)(B)(i); and rewrote (b)(6)(B), (b)(7)(B), (b)(8)(B), and (c).

6-15-1703. Staff development.

(a) By September 1, 2003, the State Board of Education’s Standards for Accreditation of Arkansas Public Schools and School Districts shall require no fewer than two (2) hours of professional development opportunities for teachers, which may be included in the thirty (30) hours of professional development required as of January 1, 2003, designed to enhance understanding of effective parental involvement strategies.

(b) By September 1, 2003, the State Board of Education’s Standards for Accreditation of Arkansas Public Schools and School Districts shall require no fewer than three (3) hours of professional development opportunities for administrators, in addition to the thirty (30) hours of professional development required as of January 1, 2003, designed to enhance understanding of:

(1) Effective parent involvement strategies; and

(2) The importance of administrative leadership in setting expectations and creating a climate conducive to parental participation.

History. Acts 2003, No. 603, § 1.

6-15-1704. Annual review of parental involvement plans.

(a) Beginning on October 1, 2004, and by each October 1 thereafter, every school district shall review and update the school district's parental involvement plan and file a copy of the plan with the Department of Education.

(b)(1) The department shall review each plan and determine whether the plan is in compliance with provisions of this subchapter and shall indicate on the school's performance report under § 6-15-1402 whether or not the school district is in compliance with this subchapter.

(2) If the department determines that a school district is not in compliance with §§ 6-15-1701 — 6-15-1703, the department shall send the school district written notification indicating any deficiencies in the school district's plan no later than January 1 of each year and allow the school district an opportunity to correct any deficiency.

History. Acts 2003, No. 603, § 2.

6-15-1705. Incorporation of parental involvement into teacher education programs.

The Department of Education and the Department of Higher Education shall collaborate with institutions of higher education to incorporate into teacher education programs information regarding the importance of parental involvement and how to successfully encourage parents to be partners in their child's education.

History. Acts 2003, No. 603, § 5.

SUBCHAPTER 18 — ARKANSAS PYGMALION COMMISSION ON NONTRADITIONAL EDUCATION**SECTION.**

6-15-1801. Purpose.

6-15-1802. Establishment of Arkansas
Pygmalion Commission on
Nontraditional Education.

6-15-1803. Members.

SECTION.

6-15-1804. Organization.

6-15-1805. Contribution of staff time by
certain state agencies.

6-15-1806. Compensation.

Effective Dates. Acts 2003 (1st Ex. Sess.), No. 51, § 28: July 1, 2003, except that Sections 24 and 25 are effective May 9, 2003. Emergency clause provided: "It is found and determined by the General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 2003 is essential to the operation of the agency for which the appropriations in

this Act are provided, and that the General Assembly recognizes the important contribution to education made by the Pygmalion Commission on Nontraditional Education, and that recognizing and identifying how the educational system is failing a child early enough to provide meaningful intervention is necessary to improve the educational outcomes for at-risk students, and the Pygmalion Commission shall expire on June 30, 2003

unless the General Assembly continues the Commission by further act, and that Section 24 of this Act shall become effective immediately upon its passage and approval, and that the General Assembly further recognizes the financial hardships placed on school district resources if the required salary increase authorized by The Educator Compensation Act of 2001 is to continue, and that Section 25 of this Act shall become effective immediately upon its passage and approval due to the economic downturn of state revenues and insufficient resources to provide school districts with sufficient funds to implement the required salary increase, and that in the event of an extension of the Regular Session, the delay in the effective date of the remaining sections of this Act

beyond July 1, 2003, could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety: (1) Section 24 and Section 25 of this act shall become effective on: (A) The date of its approval by the Governor; (B) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (C) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto; and (2) All other sections of this act shall become effective on July 1, 2003."

6-15-1801. Purpose.

(a) It is the purpose of the General Assembly through this subchapter to focus public attention on the problems facing those Arkansas students not being educated under the current public school system and on the need for alternative learning environments to avoid the consequences to all Arkansans that will result if nothing is done to better prepare these students.

(b) The General Assembly believes that many of the problems can be conquered. The key is recognizing and identifying how the system is failing a child early enough to provide meaningful intervention and then adapting or altering the system to meet a child's educational needs. Arkansas schools exist solely for the benefit of the children, and the schools must adapt to the children's educational needs.

(c) The Arkansas Pygmalion Commission on Nontraditional Education will act to focus public attention, as a clearinghouse for information regarding alternative learning environments, and to ensure that needed changes are made in curriculum, instructional approaches, school climate, and organization to improve educational outcomes for at-risk students.

History. Acts 1993, No. 1288, § 1.

1288, was originally set out as a note at title 6, chapter 10.

Publisher's Notes. Acts 1993, No.

6-15-1802. Establishment of Arkansas Pygmalion Commission on Nontraditional Education.

(a) The Arkansas Pygmalion Commission on Nontraditional Education is established for purposes of, including, but not limited to, the following:

(1) Identifying and developing additional funding bases, including such nontraditional sources to use in implementing intervention services for students as private funds and grants, federal education funds and grants, and sale of merchandise and services generated by alternative education programs, that can be deployed in meeting the educational needs of all Arkansas children;

(2) Conducting a study to determine the cost of various service models and the relative cost-effectiveness of each;

(3) Identifying, in conjunction with school administrators responsible for alternative learning environments, factors to consider in determining the placement of students in alternative learning environments, including, but not limited to, the following:

(A) Standardized test scores or assessment portfolios which indicate that a student is nine (9) months or more behind grade level;

(B) The student's being one (1) year or more behind grade-level peers in accumulating credits for graduation;

(C) Having been retained one (1) or more times;

(D) Recurring absences;

(E) Personal or family problems or situations that have negatively affected the student's ability to function in school;

(F) Referrals for special education in which the student is found not eligible for special education; and

(G) Suspension or expulsion within the previous or current school semester;

(4) Forming guidelines whereby the public schools and other agencies work collectively to implement a program for Arkansas children in kindergarten through grade twelve (K-12) in both general education and vocational education;

(5) Collecting and compiling research, information, and data regarding alternative and nontraditional methods for meeting the educational needs of all Arkansas children and disseminating the research, information, and data to the public schools; and

(6) Recommending the implementation of both in-service and university level courses designed to enhance the ability of a teacher or an administrator to develop interventions that will meet the needs of students identified for placement in an alternative or nontraditional learning environment.

(b) The commission shall utilize the proposed Department of Education Rules and Regulations for Alternative Learning Environments, dated January 13, 1993.

History. Acts 1993, No. 1288, § 2.

6-15-1803. Members.

(a) The Arkansas Pygmalion Commission on Nontraditional Education shall be composed of sixteen (16) members who are currently serving as members of the commission and who were appointed in the manner and to represent various interests as follows:

(1) One (1) member representing classroom teachers to be recommended by the Arkansas Education Association and appointed by the Governor;

(2) One (1) member representing school district superintendents to be recommended by the Arkansas Association of Educational Administrators and appointed by the Governor;

(3) One (1) member representing local school boards of directors to be recommended by the Arkansas School Boards Association and appointed by the Governor;

(4) Two (2) members representing school principals with alternative education experience to be recommended by the Arkansas Association of Educational Administrators and appointed by the Governor;

(5) One (1) member representing the Department of Health and appointed by the Governor;

(6) One (1) member representing the Department of Human Services and appointed by the Governor;

(7) One (1) member representing the Department of Education and appointed by the Governor;

(8) One (1) member representing the Department of Workforce Education and appointed by the Governor;

(9) One (1) member representing the Department of Higher Education and appointed by the Governor;

(10) One (1) member representing the judicial system to be appointed by the Governor;

(11) One (1) member representing students with learning disabilities or attention deficit disorder to be appointed by the Governor;

(12) Two (2) members representing physicians and psychologists who specialize in treating children and adolescents to be recommended by the Chief of Staff of Arkansas Children's Hospital and appointed by the Governor;

(13) One (1) member representing parents to be recommended by the Arkansas Congress of Parents and Teachers and appointed by the Governor; and

(14) One (1) member at large to be appointed by the Governor.

(b) Any vacancies shall be filled in accordance with the original appointment.

History. Acts 1993, No. 1288, § 3; 30; 1999, No. 1481, § 1; 2003 (1st Ex. 1995, No. 596, § 1; 1997, No. 112, §§ 18, Sess.), No. 51, § 24.

6-15-1804. Organization.

(a) The Arkansas Pygmalion Commission on Nontraditional Education shall select one (1) of its members to serve as chair.

(b) The Commissioner of Education shall serve as a disbursing officer of any funds received by the commission.

(c) By July 1 of each year, the commission shall submit a report containing recommendations for alternative and nontraditional methods for meeting the educational needs of all Arkansas children and for

funding these recommendations to the Governor, the Senate Interim Committee on Education, the House Interim Committee on Education, the Senate Interim Committee on Children and Youth, and the Department of Education.

History. Acts 1993, No. 1288, § 4; section (c) began "By July 1, 1996, and 1995, No. 596, § 2; 1997, No. 312, § 19. each year thereafter until the commission expires,".

Publisher's Notes. As enacted, sub-

6-15-1805. Contribution of staff time by certain state agencies.

(a) The following state agencies and constitutional officers shall contribute staff time to work for the Arkansas Pygmalion Commission on Nontraditional Education:

- (1) The Department of Education;
- (2) The Department of Workforce Education;
- (3) The Department of Health;
- (4) The Department of Human Services;
- (5) The Administrative Office of the Courts; and
- (6) The office of the Governor.

(b) The members of the commission shall work cooperatively with the various agencies and offices in determining how the work of the commission can be scheduled to accommodate both the regular agency duties of the staff and the work of the commission.

History. Acts 1993, No. 1288, § 5.

6-15-1806. Compensation.

(a)(1) Members of the Arkansas Pygmalion Commission on Nontraditional Education shall serve without pay, but the commission may reimburse nonlegislative and nonstate employee members for actual and necessary expenses incurred in the performance of their duties if sufficient funds are available.

(2) Expenses of state employees serving on the commission shall be reimbursed from funds appropriated to that agency for those purposes.

(b) The commission is authorized to accept gifts, grants, and donations from private sources, municipal and county governments, the state, and the federal government to be used for the purposes of this subchapter.

History. Acts 1993, No. 1288, § 6; 1997, No. 250, § 251; 1999, No. 1481, § 2.

SUBCHAPTER 19 — DELTA STUDENT ACADEMIC SUCCESS PLAN

SECTION.

6-15-1901. Establishment of plan.

6-15-1901. Establishment of plan.

(a) The University of Arkansas at Pine Bluff may establish a Delta Student Academic Success Plan to reduce the disparities in the academic performance of youth in the Arkansas delta.

(b) The plan shall consist of the following components:

(1) A coalition effort between the University of Arkansas at Pine Bluff and various school districts in Arkansas, Chicot, Drew, Jefferson, and Lincoln counties;

(2) A plan to establish a standards-based curriculum to be used in the various school districts in mathematics, reading, and English using instructional strategies based on students' assessed mastery level and learning styles;

(3) Faculty development in:

(A) Standards-based mathematics, reading, and English;

(B) Use of student assessment data in instructional design; and

(C) Instructional design based on assessed mastery and learning styles;

(4) Development of an Arkansas Teacher Corps to increase the number of new and certified teachers;

(5) Development of an after-school academic program to reinforce knowledge and skills taught during the regular class day and to help develop knowledge and skills in wellness, art, hobbies, personal growth, decision making, and career awareness and requirements; and

(6) Development of a comprehensive evaluation program in which key assessment measures shall include:

(A) The number of participants;

(B) The participants' mastery of English, mathematics, and reading as measured by the state benchmark examinations;

(C) Stanford Achievement Test and National Assessment of Educational Progress measures; and

(D) Admission to and graduation from an accredited college or technical institution.

(c) The Chancellor of the University of Arkansas at Pine Bluff may enter into an agreement with the superintendents of the school districts within Arkansas, Chicot, Drew, Jefferson, and Lincoln counties to implement the plan to the extent that the plan does not conflict with Arkansas law or with the standards set forth by the Department of Education.

(d) If a plan is established, the chancellor shall make a yearly report of the progress of the plan, including the evaluations and measures as described under subdivision (b)(6) of this section to the superintendents of the school districts in Arkansas, Chicot, Drew, Jefferson, and Lincoln counties, the department, the House Interim Committee on Education, the Senate Interim Committee on Education, and the Legislative Council.

SUBCHAPTER 20 — PUBLIC SCHOOL STUDENT PROGRESSION

SECTION.

- 6-15-2001. Intent.
- 6-15-2002. Comprehensive program.
- 6-15-2003. [Repealed.]
- 6-15-2004. Reading deficiency and parental notification.
- 6-15-2005. Elimination of social promotion.
- 6-15-2006. Annual report.

SECTION.

- 6-15-2007. State Board of Education authority and responsibilities.
- 6-15-2008. Technical assistance.
- 6-15-2009. Public School Assessments and Remediation.
- 6-15-2010. Alternative exit course and alternative course exam.

Effective Dates. Acts 2003 (2nd Ex. Sess.), No. 35, § 13: July 1, 2004. Effective date clause provided: "Unless otherwise provided herein, this subchapter shall become effective on July 1, 2004."

Acts 2003 (2nd Ex. Sess.), No. 35, § 14: Jan. 14, 2004. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the Arkansas Supreme Court in *Lake View School District No. 25 v. Huckabee*, 351 Ark. 31 (2002) has declared the now current system of education to be unconstitutional because it is both inequitable and inadequate; that the Arkansas Supreme Court has set forth the test for a constitutional system to be one in which the state has an 'absolute duty' to

provide and 'equal opportunity to an adequate education'; that the Arkansas Supreme Court has instructed the General Assembly to define and provide what is necessary to provide an adequate and equitable education for the children of Arkansas. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

6-15-2001. Intent.

It is the intent of the General Assembly subsequent to § 6-15-2004 that:

(1) Each student's progression from one (1) grade to another be determined, in part, upon proficiency in reading, writing, and mathematics;

(2) District school board of directors policies facilitate such proficiency; and

(3) Each student and his or her parent be informed of the student's academic progress.

History. Acts 2003 (2nd Ex. Sess.), No. 35, § 5.

6-15-2002. Comprehensive program.

The State Board of Education shall establish a comprehensive program for student progression that shall include:

(1) Standards for evaluating each student's performance, including the student's mastery level with respect to the academic content standards;

(2) Specific levels of performance in reading, writing, and mathematics for each grade level and specific proficiency levels of performance on statewide assessments, including end-of-course examinations, below which a student shall be remediated within an intensive program that is different from the previous year's program and that takes into account the student's learning style; and

(3) Appropriate alternative education intervention programs as developed by the local school district in compliance with state and federal law and approved by the Department of Education for a student who has been retained two (2) consecutive years.

History. Acts 2003 (2nd Ex. Sess.), No. 35, § 5.

6-15-2003. [Repealed.]

Publisher's Notes. This section, concerning assessment and remediation, was repealed by Acts 2005, No. 2243, § 2. The section was derived from Acts 2003 (2nd Ex. Sess.), No. 35, § 5.

6-15-2004. Reading deficiency and parental notification.

(a)(1) It is the ultimate goal of the General Assembly that every student read at or above his or her grade level.

(2)(A) Any student who exhibits a substantial deficiency in reading, based upon statewide assessments conducted in grades kindergarten through two (K-2), or through teacher observations, shall be given intensive reading instruction utilizing a reading program approved by the State Board of Education as soon as practicable following the identification of the reading deficiency.

(B) The student's reading proficiency shall be reassessed by utilizing assessments within the state board-approved reading program.

(C) The student shall continue to be provided with intensive reading instruction until the reading deficiency is corrected.

(b) Beginning with the 2005-2006 school year, the parent or guardian of any student who exhibits a substantial deficiency in reading, as described in subsection (a) of this section, shall be notified in writing of the following:

(1) That his or her child has been identified as having a substantial deficiency in reading;

(2) A description of the current services that are provided to the child; and

(3) A description of the proposed supplemental instructional services and supports that will be provided to the child that are designed to remediate the identified area of reading deficiency.

History. Acts 2003 (2nd Ex. Sess.), No. 35, § 5.

6-15-2005. Elimination of social promotion.

No student may be assigned to a grade level based solely on age or other factors that constitute social promotion except as provided by applicable federal and state law.

History. Acts 2003 (2nd Ex. Sess.), No. 35, § 5.

6-15-2006. Annual report.

(a)(1)(A) In addition to the requirements in § 6-15-2004(b), each school district board of directors shall annually report to the parent or guardian of each student the progress of the student toward achieving state expectations for proficiency in reading, writing, and mathematics.

(B) The school district board of directors shall report to the parent, guardian, or the student if the student is eighteen (18) years of age or older, the student's results on each statewide assessment test.

(2) The evaluation of each student's progress shall be based upon the student's classroom work, observations, tests, state assessments, and other relevant information.

(3) Progress reporting shall be provided to the parent, guardian, or the student if the student is eighteen (18) years of age or older, in writing in a format adopted by the school district board of directors which is consistent with § 6-15-2101(b).

(b) Beginning with the 2004-2005 school year, each school district board of directors shall annually publish in the local newspaper the school performance report required by § 6-15-1402 and report in writing to the State Board of Education by October 15 of each year the following information on the prior school year or the latest information available:

(1) By grade level, economic status, and ethnicity, the number and percentage of all students in grades kindergarten through twelve (K-12) performing at each category level on the benchmark examinations, and end-of-course examinations, the percentile rankings by school and grade level on norm-referenced exams, any other assessments as required by the state board, the number of students taking advanced placement courses or courses offered under the International Baccalaureate Diploma Program, the number taking the advanced placement exams, and the percent of students making a 3.0, 4.0, or 5.0 on advanced placement exams;

(2) By grade level, the number and percentage of all students retained in grades one through eight (1-8);

(3) The graduation rate, grade inflation rate, drop-out rate for grades nine through twelve (9-12), and college remediation rate;

(4) The number of students transferring pursuant to the unsafe school provision of § 6-15-432; and

(5) The number of students transferring pursuant to the Arkansas Opportunity Public School Choice Act of 2004, § 6-18-227.

(c) This section shall apply to the extent that it is not in violation of applicable state or federal law.

History. Acts 2003 (2nd Ex. Sess.), No. 35, § 5; 2005, No. 2152, § 2.

Amendments. The 2005 amendment inserted “or courses offered under the International Baccalaureate Diploma Program” in (b)(1).

6-15-2007. State Board of Education authority and responsibilities.

The State Board of Education shall adopt rules for the administration of this subchapter pursuant to the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

History. Acts 2003 (2nd Ex. Sess.), No. 35, § 5.

6-15-2008. Technical assistance.

(a) The Department of Education shall provide technical assistance as needed to aid school districts in administering this subchapter.

(b)(1) At least semiannually, the department shall provide a report to the House Interim Committee on Education and the Senate Interim Committee on Education setting forth the school districts requesting assistance, the date of the requests, and the dates and actions taken.

(2) The department shall further report the results of the action taken or assistance provided.

History. Acts 2003 (2nd Ex. Sess.), No. 35, § 5.

6-15-2009. Public School Assessments and Remediation.

(a)(1) Each student shall participate in the statewide program of educational assessment required in §§ 6-15-419 and 6-15-433 by the State Board of Education.

(2) Each student in grades three through eight (3-8) shall participate in those benchmark assessments required in §§ 6-15-419 and 6-15-433 as established by the state board.

(3) Students in appropriate grades shall participate in those end-of-course assessments required by §§ 6-15-419 and 6-15-433 as established by the state board.

(4) The state board shall determine a satisfactory passing-level score of student performance on each assessment required in subdivisions (a)(1)-(3) of this section.

(5) The state board shall promulgate the passing levels of student performance in rules and regulations.

(b)(1) Each student identified as not meeting the satisfactory pass levels in the immediate previously administered benchmark assessment shall participate in his or her remediation activities as required in his or her individualized academic improvement plan beginning in the school year the assessment results are reported.

(2) If a student with disabilities identified under the Individuals with Disabilities Education Act, 20 U.S.C. § 1400 et seq., has an individualized education program that addresses any academic area or areas in which the student is not proficient on state-mandated augmented, criterion-referenced, or norm-referenced assessments, the individualized education program meets the requirements of an academic improvement plan under this section.

(3)(A) The school district shall notify the student's parent, guardian, or caregiver of the parent's role and responsibilities as well as the consequences for the student's failure to participate in the plan.

(B) This notice may be provided via student handbooks issued to students.

(4) Beginning with the 2005-2006 school year, any student in grades three through eight (3-8) identified as not passing a benchmark assessment and who fails to participate in the subsequent academic improvement plan shall be retained and shall not be promoted to the next appropriate grade until:

(A) The student is deemed to have participated in an academic improvement plan; or

(B) The student passes the benchmark assessment for the current grade level in which the student is retained.

(c)(1) Beginning with the 2005-2006 school year, any student required to take an end-of-course assessment that is identified as not meeting the satisfactory pass levels for a particular assessment shall participate in his or her remediation activities as required in his or her individualized academic improvement plan in the school year that the assessment results are reported in order to receive credit on his or her transcript for the course related to the end-of-course assessment.

(2) The individualized academic improvement plan shall include remediation activities focused on those areas in which a student failed to pass an end-of-course assessment.

(3)(A) Until the 2009-2010 school year, a student who is identified as not meeting the satisfactory pass levels for an end-of-course assessment shall not receive credit on his or her transcript for the course related to the end-of-course assessment until the student is identified as having participated in remediation through an individualized academic improvement plan.

(B) Prior to the 2009-2010 school year, remediation does not require that a student pass a subsequent end-of-course assessment in order to receive credit for a course.

(d)(1)(A) Beginning with the 2009-2010 school year, all initial end-of-course assessments shall be administered by grade ten (10) for each student or as allowed in subsection (f) of this section.

(B) Any student who does not meet the satisfactory pass level on the initial assessment shall participate in an individualized academic improvement plan that shall include remediation activities and multiple opportunities for the student to take and pass subsequent end-of-course assessments.

(2) For any student required to participate in an individualized academic improvement plan in subdivision (d)(1)(B) of this section, the individualized academic improvement plan shall identify the student's specific areas of deficiency on the end-of-course exam, the desired levels of performance necessary for the student to meet the satisfactory pass levels, and the instructional and support services to be provided to meet the desired levels of performance.

(3)(A) Schools shall also provide for the frequent monitoring of the student's progress in meeting the desired levels of performance.

(B) Remedial activities and instruction provided during high school shall not be in lieu of English, mathematics, science, history, or other core courses required for graduation.

(e)(1) Beginning with the 2009-2010 school year, no student identified as not passing an initial end-of-course assessment shall receive a credit on his or her transcript for the course related to the end-of-course assessment until:

(A) The student is identified as meeting a satisfactory pass level on a subsequent end-of-course assessment; or

(B) The student is identified as having finished by the end of grade twelve (12) an appropriate alternative exit course and is identified as having met a satisfactory pass level on an alternative assessment directly related to the alternative exit course pursuant to § 6-15-2010.

(2)(A) Any student identified as having not met the satisfactory pass levels of an initial end-of-course assessment shall not receive credit on his or her transcript for the related course until the student meets the requirements of subdivision (e)(1) of this section.

(B) If a student does not meet the satisfactory pass levels on an initial end-of-course assessment or does not satisfy the remedial requirements of subdivisions (d)(1)(B) and (e)(1) of this section, the student shall not be entitled to graduate with a high school diploma from an Arkansas high school or charter school.

(f)(1)(A) The state board shall establish the end-of-course assessment program required beginning in the 2009-2010 school year.

(B) Throughout this process, the end-of-course assessment program shall ever be maintained in such a manner as to meet the requirements of state and federal law, including the full range of students with disabilities.

(2)(A) The superintendent of each school district shall be responsible for the proper administration of this section and those rules promul-

gated by the state board to implement the requirements of this section.

(B) To the extent that any school district is determined to have knowingly failed to administer these provisions of law or rules, the superintendent's license shall be subject to probation, suspension, or revocation pursuant to the process set forth in accordance with § 6-17-410.

(3) Each year the Department of Education shall make public at least fifty percent (50%) of the test questions on the most recent initial benchmark and end-of-course assessments.

(4) The state board shall promulgate any rules necessary to administer the provisions of this subsection.

History. Acts 2005, No. 2243, § 1; 2007, No. 1573, §§ 14, 15.

Amendments. The 2007 amendment substituted "augmented, criterion-referenced, or norm-referenced assessments" for "criterion-referenced assessments" in

(b)(2); and substituted "establish the end-of-course assessment program" for "establish the transition process from the current end-of-course assessment program to the end-of-course assessment program" in (f)(1)(A).

6-15-2010. Alternative exit course and alternative course exam.

(a)(1) No student who is identified as having failed to meet the satisfactory pass levels on an initial end-of-course assessment shall be entitled to take more than three (3) additional subsequent end-of-course assessments.

(2)(A) Any student who fails to be identified as meeting the satisfactory pass levels after taking at least three (3) subsequent end-of-course exams shall be required to take and pass an alternative exit course and meet a satisfactory alternative level score on a subsequent alternative assessment prior to being entitled to graduate with a high school diploma from an Arkansas high school or open-enrollment charter school.

(B) If a student with disabilities identified under the Individuals with Disabilities Education Act, 20 U.S.C. 1400 et seq., is unable to meet the requirements of subdivision (a)(2)(A) of this section because of the nature of his or her disabilities, the student may graduate from high school by demonstrating alternative competencies or alternative levels of competency as contained in the student's individualized education program.

(3) Prior to the administration of any additional end-of-course assessment as permitted under § 6-15-2009 (d)(1)(B), a student shall be given a sufficient opportunity and time for remediation.

(b) The alternative exit course may be offered through a distance learning class and may be offered by the school district outside the course of the normal school day.

(c) The State Board of Education shall promulgate any rules necessary to administer the provisions of this subsection.

History. Acts 2005, No. 2243, § 1.

SUBCHAPTER 21 — SCHOOL RATING SYSTEM

SECTION.	SECTION.
6-15-2101. School rating system — Annual reports.	performance category level — Improvement and performance rating reports.
6-15-2102. School rating system — Annual improvement category levels.	6-15-2106. School rating system — Improvement and performance category levels — Annual.
6-15-2103. School rating system — Annual performance goals — School annual performance category levels.	6-15-2107. Arkansas School Recognition Program.
6-15-2104. Mobility.	
6-15-2105. School rating system — School improvement and	

Effective Dates. Acts 2003 (2nd Ex. Sess.), No. 35, § 13: July 1, 2004. Effective date clause provided: “Unless otherwise provided herein, this subchapter shall become effective on July 1, 2004.”

Acts 2003 (2nd Ex. Sess.), No. 35, § 14: Jan. 14, 2004. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that the Arkansas Supreme Court in *Lake View School District No. 25 v. Huckabee*, 351 Ark. 31 (2002) has declared the now current system of education to be unconstitutional because it is both inequitable and inadequate; that the Arkansas Supreme Court has set forth the test for a constitutional system to be one in which the state has an ‘absolute duty’ to

provide and ‘equal opportunity to an adequate education’; that the Arkansas Supreme Court has instructed the General Assembly to define and provide what is necessary to provide an adequate and equitable education for the children of Arkansas. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

6-15-2101. School rating system — Annual reports.

- (a)(1) The Department of Education shall prepare annual reports of the results of the statewide assessment program which describe student achievement in each school district and each school in the state, as well as the school performance category levels pursuant to §§ 6-15-2102 and 6-15-2103.
- (2) The department shall prescribe the design and content of these reports that shall include without limitation descriptions of achievement of all schools participating in any assessment program and all of their major student populations as determined by the department, provided that the provisions of § 6-15-415 pertaining to student records apply to this section.

(3) Annual school performance reports shall be sent to all parents or guardians, posted on the department's website, and published by the local school district in the local newspaper.

(b)(1) The department shall provide information regarding performance of students and educational programs as required pursuant to §§ 6-15-433 and 6-15-2301 and implement a system of school reports as required by statute and State Board of Education rule.

(2) Annual school performance reports shall be in an easy-to-read format and shall include both the school improvement and performance level designations.

(c) The annual report shall designate two (2) category levels for each school:

(1) One (1) for the school's improvement gains, tracked longitudinally and using value-added calculations on the augmented, criterion-referenced, or norm-referenced assessments as defined in § 6-15-404(g), in the latest available test results, known as the annual improvement category level; and

(2)(A) One (1) based on performance from the prior year on the augmented, criterion-referenced, or norm-referenced assessments as defined in § 6-15-404(g) and end-of-course examinations, hereafter referred to as annual performance pursuant to § 6-15-2103.

(B) If the augmented, criterion-referenced, or norm-referenced assessments are not in compliance with § 6-15-404(g), then the department shall rely on other assessments as defined in § 6-15-404(g) for the calculation of the improvement level.

History. Acts 2003 (2nd Ex. Sess.), No. 35, § 6; 2005, No. 1962, § 10; 2007, No. 1573, § 16.

Amendments. The 2005 amendment deleted "test" following the final occurrence of "§ 6-15-404(g)(1)" in (c)(2)(B).

The 2007 amendment substituted "augmented, criterion-referenced, or norm-referenced assessments" for "criterion-referenced test" three times in (c); and made related changes.

6-15-2102. School rating system — Annual improvement category levels.

(a) For the designation determined by annual improvement, annual improvement gains on augmented, criterion-referenced, or norm-referenced assessments, as defined in § 6-15-404(g), shall identify schools as being in one (1) of the following category levels defined according to rules of the State Board of Education:

- (1) "Level 5", schools of excellence for improvement;
- (2) "Level 4", schools exceeding improvement standards;
- (3) "Level 3", schools meeting improvement standards;
- (4) "Level 2", schools on alert; or
- (5) "Level 1", schools in need of immediate improvement.

(b) The base year for improvement gains shall be established in the 2006-2007 school year, with annual improvement category levels assigned in the 2007-2008 school year and each school year thereafter.

(c) School annual improvement category level designations shall be based on the following:

(1) A combination of student achievement scores as measured by annual academic gain scores on augmented, criterion-referenced, or norm-referenced assessments, as defined in § 6-15-404(g), or assessments in grades kindergarten through twelve (K-12); and

(2) Student assessment data used to determine annual improvement category levels shall include the aggregate scores of the combined population.

(d) The state board shall adopt appropriate criteria for each school improvement category level.

(e) Schools that receive an annual improvement category level of level 5 or level 4 are eligible for school recognition awards and performance-based funding pursuant to § 6-15-2107.

History. Acts 2003 (2nd Ex. Sess.), No. 35, § 6; 2007, No. 1573, § 17.

Amendments. The 2007 amendment substituted “augmented, criterion-referenced, or norm-referenced assessments” for “criterion-referenced tests” in (a) and (c)(1).

6-15-2103. School rating system — Annual performance goals — School annual performance category levels.

(a) The annual report shall identify schools as being in one (1) of the following category levels, based on the augmented, criterion-referenced, or norm-referenced assessments, as defined in § 6-15-404(g), and defined according to rules of the State Board of Education:

- (1) “Level 5”, schools of excellence;
- (2) “Level 4”, schools exceeding standards;
- (3) “Level 3”, schools meeting standards;
- (4) “Level 2”, schools on alert; or
- (5) “Level 1”, schools in need of immediate improvement.

(b)(1) For the 2004-2005 through 2008-2009 school years, schools will not be assigned annual performance category levels unless an annual performance category level is requested by the school.

(2) For schools that receive an improvement category level of level 5 or level 4 in the 2009-2010 and 2010-2011 school years, the performance category level may be waived.

(c)(1) For all schools that have received an annual performance category level of level 1 for two (2) consecutive years, the students in these schools shall be offered the opportunity public school choice option with transportation provided pursuant to § 6-18-227 et seq.

(2) In addition, the school district board of directors shall provide supplemental educational services, approved by the state board, to affected students.

(d) The state board shall adopt appropriate criteria for each school performance category level.

(e) Schools that receive an annual performance category level of level 5 or level 4 are eligible for school recognition awards and performance-based funding pursuant to § 6-15-2107.

History. Acts 2003 (2nd Ex. Sess.), No. 35, § 6; 2007, No. 1573, § 18.

Amendments. The 2007 amendment substituted “augmented, criterion-refer-

enced, or norm-referenced assessments” for “criterion-referenced benchmark exams” in (a).

6-15-2104. Mobility.

The Department of Education shall study the effects of mobility on the performance of highly mobile students and recommend programs to improve the performance of such students.

History. Acts 2003 (2nd Ex. Sess.), No. 35, § 6.

6-15-2105. School rating system — School improvement and performance category level — Improvement and performance rating reports.

(a) School annual improvement and performance category level designations and ratings shall apply to each school’s achievement for the year in which the achievement is measured.

(b)(1) Each school’s designation and rating shall be published annually by the Department of Education and by the school district and shall be available on the department’s website.

(2) Each parent and guardian shall be entitled to an easy-to-read written report describing the designation and rating of the school in which his or her child is enrolled.

History. Acts 2003 (2nd Ex. Sess.), No. 35, § 6.

6-15-2106. School rating system — Improvement and performance category levels — Annual.

The State Board of Education shall adopt rules necessary to implement this subchapter pursuant to the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

History. Acts 2003 (2nd Ex. Sess.), No. 35, § 6.

6-15-2107. Arkansas School Recognition Program.

(a) The General Assembly finds that there is a need for an incentive program for outstanding schools. The General Assembly further finds that performance-based incentives are commonplace in the private sector and should be infused into the public sector as a reward for productivity.

(b) The Arkansas School Recognition Program is created to provide financial awards to public schools that are at:

(1) A category level of level 5 or level 4 pursuant to § 6-15-2103 and at least a level 3 pursuant to § 6-15-2102; or

(2) A category level of level 5 or level 4 school pursuant to § 6-15-2102.

(c)(1) Each school meeting the requirements set out in subdivision (b)(1) or (2) of this section shall receive performance-based funding in the amount of one hundred dollars (\$100) per student who participated in the school's assessment program.

(2) All schools meeting both criteria shall receive rewards for both categories.

(3) Each school that receives performance-based funding shall submit a proposal for its spending of the performance-based funding to the Department of Education.

(4) The department shall:

(A) Review and approve each proposal; and

(B) Approve spending of performance-based funding for academic expenses only as set forth in subsection (f) of this section.

(d) All public schools, including charter schools, that receive school category levels pursuant to §§ 6-15-2102 and 6-15-2103 are eligible to participate in the program.

(e)(1) All eligible schools shall receive performance-based funding.

(2)(A) Funds shall be distributed to the school's fiscal agent and placed in the school's account and shall be used for purposes listed in subsection (f) of this section as determined by a committee which shall include:

(i) The principal;

(ii) A teacher elected by the faculty; and

(iii) A parent representative selected by the local Parent Teacher Association or some other local parental involvement group.

(B) The committee shall make its determination by December 15 of each applicable year.

(f) School recognition awards shall be used for the following:

(1) Nonrecurring bonuses to the faculty and staff;

(2) Nonrecurring expenditures for educational equipment or materials to assist in maintaining and improving student performance; or

(3) Temporary personnel for the school to assist in maintaining and improving student performance.

(g) The General Assembly shall appropriate and fund sufficient funds to implement this section.

History. Acts 2003 (2nd Ex. Sess.), No. 35, § 6.

SUBCHAPTER 22 — SCHOOL IMPROVEMENT AND EDUCATION ACCOUNTABILITY

SECTION.
6-15-2201. Implementation of state system of school improvement

and education accountability.

Effective Dates. Acts 2003 (2nd Ex. Sess.), No. 35, § 13: July 1, 2004. Effective date clause provided: "Unless otherwise provided herein, this subchapter shall become effective on July 1, 2004."

Acts 2003 (2nd Ex. Sess.), No. 35, § 14: Jan. 14, 2004. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the Arkansas Supreme Court in *Lake View School District No. 25 v. Huckabee*, 351 Ark. 31 (2002) has declared the now current system of education to be unconstitutional because it is both inequitable and inadequate; that the Arkansas Supreme Court has set forth the test for a constitutional system to be one in which the state has an 'absolute duty' to

provide and 'equal opportunity to an adequate education'; that the Arkansas Supreme Court has instructed the General Assembly to define and provide what is necessary to provide an adequate and equitable education for the children of Arkansas. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

6-15-2201. Implementation of state system of school improvement and education accountability.

(a) The Department of Education is responsible for implementing and maintaining a system of intensive school improvement and education accountability that shall include policies and programs to implement the following:

(1)(A) A system of data collection and analysis that will improve information about the educational success of individual students and schools.

(B) The information and analyses shall be capable of identifying educational programs or activities in need of improvement, and reports prepared pursuant to this section shall be distributed to the appropriate school district boards of directors prior to distribution to the general public.

(C) No disclosure shall be made that is in violation of applicable federal or state law;

(2) A program of school improvement that will analyze information to identify schools' educational programs or educational activities in need of improvement;

(3) A method of delivering services to assist school districts and schools to improve; and

(4) A method of coordinating the state educational goals and school improvement plans with any other state program that creates incentives for school improvement.

(b)(1) The department shall be responsible for the implementation and maintenance of the system of school improvement and education accountability outlined in this section.

(2) There shall be an annual determination of whether each school is progressing toward implementing and maintaining a system of school improvement.

(c)(1) If progress is not being made, the local school district shall prepare and implement a revised school improvement plan.

(2) The department and the State Board of Education shall monitor the development and implementation of the revised school improvement plan.

(d)(1)(A) The department shall implement a training program to develop among state and school district educators a cadre of facilitators of school improvement.

(B) These facilitators shall assist schools and school districts to conduct needs assessments and develop and implement school improvement plans to meet state goals.

(2)(A)(i) Upon request, the department shall provide technical assistance and training to any school, school district, or school district board of directors for conducting needs assessments, developing and implementing school improvement plans, developing and implementing assistance and intervention plans, or implementing other components of school improvement and accountability.

(ii) Priority for these services shall be given to schools designated as school districts in academic distress or schools in need of school improvement under state or federal law.

(B)(i) No less than semiannually, the department shall provide a report to the House Interim Committee on Education and the Senate Interim Committee on Education setting forth the school districts requesting assistance, the state of each request, and the dates and actions taken.

(ii) The department shall further report the results of the actions taken or assistance provided.

(3) The department shall provide technical assistance to each school that is designated as a level 1 school or a level 2 school under § 6-15-2103 to develop a revised school improvement plan.

(e) As a part of the system of educational accountability, the department shall:

(1) Develop minimum performance standards for various grades and subject areas, as required in §§ 6-15-404 and 6-15-433;

(2) Administer the statewide assessment testing program created by § 6-15-433;

(3) Conduct or contract with a provider to conduct the program assessments required by § 6-15-403;

(4) Conduct or contract with any provider for implementation for any part or portion of this act; and

(5) Perform any other functions that may be involved in educational planning, research, and evaluation or that may be required by the state board rules and regulations or federal or state law.

History. Acts 2003 (2nd Ex. Sess.), No. 35, § 8; 2007, No. 1573, § 19.

Amendments. The 2007 amendment deleted former (d), and redesignated the

following subdivisions accordingly.

Meaning of “this act”. Acts 2003 (2nd Ex. Sess.), No. 35, codified as §§ 6-15-402, 6-15-404, 6-15-419, 6-15-421, 6-15-433 —

6-15-438, 6-15-2001 — 6-15-2008, 6-15-2101 — 6-15-2107, 6-15-2201, 6-15-2301, 6-15-2401, and 6-18-227.

SUBCHAPTER 23 — BEST FINANCIAL MANAGEMENT PRACTICES FOR SCHOOL DISTRICTS

SECTION.

6-15-2301. Best financial management practices for school districts — Standards — Re-

SECTION.

views — Designation of school districts.
6-15-2302. General business manager.

Effective Dates. Acts 2003 (2nd Ex. Sess.), No. 35, § 13: July 1, 2004. Effective date clause provided: "Unless otherwise provided herein, this subchapter shall become effective on July 1, 2004."

Acts 2003 (2nd Ex. Sess.), No. 35, § 14: Jan. 14, 2004. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the Arkansas Supreme Court in *Lake View School District No. 25 v. Huckabee*, 351 Ark. 31 (2002) has declared the now current system of education to be unconstitutional because it is both inequitable and inadequate; that the Arkansas Supreme Court has set forth the test for a constitutional system to be one in which the state has an 'absolute duty' to

provide and 'equal opportunity to an adequate education'; that the Arkansas Supreme Court has instructed the General Assembly to define and provide what is necessary to provide an adequate and equitable education for the children of Arkansas. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

6-15-2301. Best financial management practices for school districts — Standards — Reviews — Designation of school districts.

(a)(1)(A) The purpose of the best financial management practices reviews is to improve Arkansas school district management's use of resources and to identify cost savings.

(B)(i) The Department of Education and the Division of Legislative Audit are directed to develop a system for reviewing the financial management practices of school districts.

(ii) In this system, the division shall assist the department in examining school district operations to determine whether they meet "best financial management code practices".

(b)(1) The best financial management practices adopted by the State Board of Education may be updated periodically after consultation with the Legislative Council, the Governor, the department, school districts, and the division.

(2) The department shall submit to the state board for review and possible adoption proposed revisions to the best financial management practices adopted by the state board and reviewed by the Legislative Council.

(3) Revised best financial management practices adopted by the state board shall be used in the next scheduled school district reviews conducted according to this section.

(4)(A) The best financial management practices, at a minimum, shall be designed to instill public confidence by:

- (i) Addressing the school district's use of resources;
- (ii) Identifying ways that the school district could save funds; and
- (iii) Improving the school district's performance accountability systems, including public accountability.

(B) To achieve these objectives, best practices shall be developed for, but need not be limited to, the following areas:

- (i) Management structures;
- (ii) Performance accountability;
- (iii) Efficient delivery of educational services, including instructional materials;
- (iv) Administrative and instructional technology;
- (v) Personnel systems and benefits management;
- (vi) Facilities construction;
- (vii) Facilities maintenance;
- (viii) Student transportation;
- (ix) Food service operations;
- (x) Cost control systems, including asset management, risk management, financial management, purchasing, internal auditing, and financial auditing;
- (xi) Athletics; and
- (xii) Other extracurricular activities.

(c)(1) The department shall conduct the reviews or contract with a private firm selected through a formal request-for-proposal process to perform the review.

(2) At least one (1) member of the private firm review team shall have expertise in school district finance.

(3) The scope of the review shall focus on the best practices adopted by the state board pursuant to subsection (b) of this section.

(d) The state board shall consult with the department throughout the best practices review process to ensure that the technical expertise of the department benefits the review process and supports the school districts before, during, and after the review.

(e)(1) Each school district shall be subject to a best financial management practices review.

(2) The General Assembly also intends that all school districts shall be reviewed biennially by on-site visits and shall be given one (1) of the following designations:

(A) "A", schools comprehensively complying with best financial practices;

(B) "B", schools complying with best financial practices at significant levels;

(C) "C", schools adequately complying with best financial practices;

(D) "D", schools less than adequately complying with best financial practices; or

(E) "F", schools failing to comply with best financial practices.

(3)(A) The department shall prepare annual reports of the results of the best financial management practices reviews and shall post to its website the school and the school district financial grades.

(B) The report, which shall be part of the overall school and school district report card requirement pursuant to § 6-15-2006, shall include both revenue sources and expenditures.

(C) The reporting of expenditures shall include breakdowns of administrative, instructional, support, and operations expenditures, as well as any other financial commitments of the school and school district.

(f) The Legislative Council may adjust the schedule of school districts to be reviewed when unforeseen circumstances prevent initiation of reviews scheduled.

(g) Subject to funding by the General Assembly, the department may contract with a private firm to conduct best financial management practices reviews.

(h)(1) Reviews shall be conducted by the division, the department, or the consultant.

(2)(A) Funds may be used for the cost of reviews by the division and private consultants contracted by the state board.

(B) Costs may include professional services, travel expenses of the department and of the staff of the division, and any other necessary expenses incurred as part of a best financial management practices review and as preapproved by the department.

(i)(1) A school district shall complete a self-assessment instrument provided by the department that indicates the school district's evaluation of its performance on each best practice.

(2)(A) The school district shall begin the self-assessment no later than sixty (60) days prior to the commencement of the review.

(B) The completed self-assessment instrument and supporting documentation shall be submitted to the department no later than the date of commencement of the review as notified by the department.

(3) The best practices review team will use this self-assessment information during its review of the school district.

(j) During the review, the department or the consultant conducting the review, if any, shall hold at least one (1) advertised public forum as part of the review in order to explain the best financial management practices review process and obtain input from students, parents or guardians, the business community, and other school district residents regarding their concerns about the operations and management of the school district.

(k)(1) School district reviews conducted under this section shall be completed within six (6) months after commencement.

(2)(A) The department shall issue a final report to the Legislative Council regarding the school district's use of the best financial management practices and cost savings recommendations within sixty (60) days after completing the reviews.

(B) Copies of the final report shall be provided to the Governor, the state board, the school district superintendent, and the school district's school board members.

(C)(i) The school district superintendent shall notify the press that the final report has been delivered.

(ii) The notification shall state the department's website address at which an electronic copy of the report is available.

(l)(1)(A) If the school district is found not to conform to the best financial management practices, the report shall contain an action plan, taking public input into consideration, detailing how the school district could meet the best practices within two (2) years.

(B) The school district board of directors shall develop and approve the implementation schedule within sixty (60) days after receipt of the final report.

(C) If a school district fails to vote on the action plan within sixty (60) days, the school district superintendent and school board members shall be required to appear and present testimony before the state board and the Legislative Council.

(2)(A) Within sixty (60) days after the receipt of the final report, the school district board of directors shall notify the state board and the department in writing of the implementation schedule for the action plan.

(B) The department shall contact the school district, assess the situation, and offer technical assistance, if needed.

(m) After a school district board of directors votes to implement the action plan:

(1) No later than six (6) months after receipt of the final best financial practices report, the school district board of directors shall submit an initial status report to the Governor, the state board, the division, the department, and the Legislative Council on progress made toward implementing the action plan and whether changes have occurred in other areas of operation that would affect compliance with the best practices; and

(2)(A) A second status report shall be submitted by the school district to the Governor, the state board, the division, the department, and the Legislative Council no later than six (6) months after submission of the initial report, and every six (6) months thereafter, until status reports are not required.

(B) Status reports are not required once the state board concludes that the school district is using the best financial management practices and the school district is designated a grade category "A" for its financial practices.

(n)(1) School districts that are determined in their review to be using the best practices and are graded a category “A” pursuant to subsection (e) of this section shall receive a “Seal of Best Financial Management”.

(2)(A) The state board designation shall be effective until a school district’s financial accountability grade decreases.

(B) The state board shall revoke the designation of a school district board of directors at any time if it determines that a school district is no longer complying with the state’s best financial management practices.

(o) School district boards of directors that receive a best financial management practices review shall maintain records that will enable independent verification of the implementation of the action plan and any related fiscal impacts.

(p)(1) Unrestricted cost savings resulting from implementation of the best financial management practices shall be spent at the school and classroom levels for teacher salaries, teacher professional development, improved classroom and school facilities, student supplies, textbooks, classroom technology, and other direct student instruction activities.

(2) Cost savings identified for a program that has restrictive expenditure requirements shall be used for the enhancement of the specific program.

(3) If the school district is in fiscal distress, the cost savings may be used in accordance with the fiscal distress plan.

History. Acts 2003 (2nd Ex. Sess.), No. 35, § 9.

6-15-2302. General business manager.

(a) As used in this section, “general business manager” means a chief financial officer or business manager, however the position is titled, who:

(1) Is responsible for the fiscal operations of the public school district; and

(2) Performs his or her duties under the direction of the superintendent of schools of the public school district.

(b)(1) On and after July 31, 2007, a general business manager for a public school district shall meet the minimum qualifications established by rule of the Department of Education.

(2) This subsection (b) is intended to require minimum qualifications for a general business manager that support the implementation of best financial management practices for public school districts.

(c) A general business manager who was employed prior to July 31, 2007, shall be exempt from the provisions of subsection (b) of this section.

History. Acts 2007, No. 1591, § 1.

SUBCHAPTER 24 — POSTSECONDARY FEEDBACK

SECTION.	Reports of students need-
6-15-2401. Review of Arkansas Place-	ing remediation.
ment Status Reports —	

Effective Dates. Acts 2003 (2nd Ex. Sess.), No. 35, § 13: July 1, 2004. Effective date clause provided: “Unless otherwise provided herein, this subchapter shall become effective on July 1, 2004.”

Acts 2003 (2nd Ex. Sess.), No. 35, § 14: Jan. 14, 2004. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that the Arkansas Supreme Court in *Lake View School District No. 25 v. Huckabee*, 351 Ark. 31 (2002) has declared the now current system of education to be unconstitutional because it is both inequitable and inadequate; that the Arkansas Supreme Court has set forth the test for a constitutional system to be one in which the state has an ‘absolute duty’ to

provide and ‘equal opportunity to an adequate education’; that the Arkansas Supreme Court has instructed the General Assembly to define and provide what is necessary to provide an adequate and equitable education for the children of Arkansas. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

6-15-2401. Review of Arkansas Placement Status Reports —
Reports of students needing remediation.

(a)(1) Representatives from the Department of Higher Education and the Department of Education shall meet with the respective chairs of the Senate Education Committee and the House Education Committee or their designees along with the selected superintendents, high school principals, and high school counselors one (1) time every bien-nium to review the Arkansas Placement Status Reports to determine whether any revisions in the format of the reports, the information that is reported, or the reporting process need to be made.

(2) Agreed-upon changes would be reported to the Arkansas Higher Education Coordinating Board, State Board of Education, Senate Education Committee, and House Education Committee.

(b) As a part of the school improvement plan pursuant to § 6-15-2201, the State Board of Education shall ensure that each school district and high school develops strategies to improve student readiness for the public postsecondary level based on annual analysis of the feedback report data.

History. Acts 2003 (2nd Ex. Sess.), No. 35, § 10; 2007, No. 1573, § 20.
Amendments. The 2007 amendment deleted former (b), (c), and (e), and redesignated the remaining subdivision as present (b); and made stylistic changes.

SUBCHAPTER 25 — EDUCATION RENEWAL ZONES

SECTION.

6-15-2501. Division of Education Renewal Zones — Creation.

6-15-2502. Establishment of educational renewal zones — Purpose — Organization.

6-15-2503. Inclusion of schools within a designated educational renewal zone.

SECTION.

6-15-2504. School improvement plans — Development — Provisions — Implementation.

6-15-2505. Annual report.

6-15-2506. Subchapter contingent on funding for education renewal zone program.

Effective Dates. Acts 2003 (2nd Ex. Sess.), No. 106, § 2: emergency clause failed to pass. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the Arkansas Supreme Court in *Lake View School District No. 25 v. Huckabee*, 351 Ark. 31 (2002), declared the current system of education to be unconstitutional because it is both inequitable and inadequate; and the Arkansas Supreme Court set forth the test for a constitutional system to be one in which the state has an 'absolute duty' to provide an 'equal opportunity to an adequate education'; the Arkansas Supreme Court instructed the General Assembly to undertake actions as

necessary to provide an opportunity for an adequate and equitable education for the children of Arkansas; and the provisions of this bill are necessary steps toward accomplishing that goal. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

6-15-2501. Division of Education Renewal Zones — Creation.

(a) There is created the Division of Education Renewal Zones.

(b) The division shall be under the supervision of the State Board of Education.

(c)(1) The state board shall select an individual to serve as the Director of the Division of Education Renewal Zones.

(2) With guidance and approval from the state board, the Director of the Division of Education Renewal Zones shall be responsible for hiring all employees of the division.

(3) The Director of the Department of Higher Education shall assign one (1) individual from the staff of the Department of Higher Education to serve as a liaison to the division.

(d) The division shall be responsible for developing guidelines for the approval of education renewal zone strategic plans and for the evaluation and reporting of education renewal zone activities.

(e) The division shall approve any education renewal zone strategic plan prior to the disbursal or annual renewal of funds to participating institutions of higher education.

History. Acts 2003 (2nd Ex. Sess.), No. 106, § 1.

6-15-2502. Establishment of educational renewal zones — Purpose — Organization.

(a) Effective July 1, 2004, any public school, education service cooperative, or institution of higher education is authorized to enter into one (1) or more interlocal agreements through which they collaborate to improve public school performance and academic achievement.

(b) Each interlocal agreement shall establish an education renewal zone.

(c) The purpose of an education renewal zone shall be to:

(1) Identify and implement education and management strategies designed specifically to improve public school performance and student academic achievement throughout the State of Arkansas, with special focus on the state's most academically distressed public schools;

(2) Provide for collaboration among the state's smaller schools and school districts in order to achieve some of the advantages of economies of scale in providing educational and related activities;

(3) Maximize benefits and outcomes of public schooling by concentrating and coordinating the resources of Arkansas's higher education institutions, the expertise of the regional education service cooperatives, and the technical assistance of other service providers to improve public school performance and student academic achievement; and

(4) Enable small, rural, and low-wealth schools to make the best use of the latest cost-effective distance learning technology to enhance curricula and professional development through two-way interactive learning environments.

(d) Each education renewal zone shall consist of the following:

(1)(A) A higher education partner.

(B) The Division of Education Renewal Zones shall develop, publish, and disseminate guidelines for establishing an education renewal zone, including a process for selecting a qualified higher education partner in the service cooperative areas in the state and in Pulaski County.

(C)(i) A qualified higher education partner shall:

(a) Be a school with a department of education or a comprehensive four-year teacher preparation program; and

(b) Be capable of demonstrating a willingness and flexibility to restructure its programs and services to meet the needs of the participating grades kindergarten through twelve (K-12) schools and school districts.

(ii) The division shall give preference to qualified four-year higher education institutions located within the education service cooperative area.

(D) If there is no qualified four-year higher education institution located within the education service cooperative area, the division may select:

(i) A two-year higher education institution that in collaboration with a qualified four-year educational institution located in another education service cooperative area provides a comprehensive four-year teacher preparation program; or

(ii) A qualified higher education institution located in another education service cooperative area.

(E) An institution of higher education may serve as the higher education partner for more than one (1) educational service cooperative area;

(2)(A) An education service cooperative.

(B) The education service cooperative shall be a full partner in planning, implementing, and evaluating the education renewal zone in its respective service area and shall provide direct services as called for in the education renewal zone plan;

(3)(A) Public schools.

(B)(i) Public schools may participate in an education renewal zone upon successful application by the public school district of which the school is a part.

(ii) A public school designated by the Department of Education as a school in school improvement or a school in a school district designated by the department as being in academic distress shall participate in an education renewal zone if requested to do so by the department, and the division working with the department shall establish priorities of establishing education renewal zones for those schools, which shall be contingent on the appropriation availability of funding for the renewal zones.

(iii) Acceptance or rejection of the application by a school for admittance to an education renewal zone shall be the responsibility of the division, with consultation from the higher education partner.

(iv) The division may include within an education renewal zone any school within the education service cooperative area provided that no more than ten (10) schools may participate in any single education renewal zone.

(v) The division may designate up to a maximum of three (3) education renewal zones within any single education service cooperative area.

(C) In designating education renewal zones and selecting schools for participation in a particular zone, the division shall give priority to schools that meet one (1) or more of the following criteria:

(i) The school is classified as a school in school improvement or alert status for school improvement under the Arkansas state compliance plan under the federal No Child Left Behind Act of 2001, 20 U.S.C. § 6301 et seq.;

(ii) The school lies within a school district designated by the department as in academic distress or financial distress under the Arkansas Comprehensive Testing, Assessment, and Accountability Program;

(iii) The school demonstrates an inability to hire and retain highly qualified teachers as defined by the state plan for compliance with the federal No Child Left Behind Act of 2001, 20 U.S.C. § 6301 et seq.;

(iv) The school demonstrates an inability to provide the minimum number of course offerings as determined by the state through the conventional hiring of qualified teachers;

(v) The school is within a school district with an average daily membership of fewer than one thousand five hundred (1,500) students; or

(vi) The school serves a student population that exceeds the statewide average rate of participation in free or reduced price lunch programs;

(4)(A) A local advisory group.

(B) Each education renewal zone shall form a local advisory group composed of a representative of the following groups:

(i) The higher education partner;

(ii) The education service cooperative which includes the area in which the education renewal zone is located;

(iii) The public school or school district participating in the education renewal zone;

(iv) Two (2) parents who have children attending a public school participating in the education renewal zone; and

(v) Each community in which there is a school participating in the education renewal zone.

(C) The division may designate up to a maximum of three (3) education renewal zones within any single education service cooperative area.

(D) The membership and staff of local advisory groups shall be reflective of the diversity of the population being served by the education renewal zone; and

(5)(A) A technical assistance provider.

(B) Any two-year community or technical college, technical support organization, or other entity may participate in the education renewal zone at the discretion of the division and in collaboration with a designated higher education partner and a designated education service cooperative.

History. Acts 2003 (2nd Ex. Sess.), No. 106, § 1.

6-15-2503. Inclusion of schools within a designated educational renewal zone.

(a)(1) The Division of Education Renewal Zones, the State Board of Education, and the local school districts shall exercise due diligence to assure, to the extent that funds are available, that each school classified as a school in school improvement under the federal No Child Left Behind Act of 2001, 20 U.S.C. § 6301 et seq., as in existence on December 1, 2003, is included in a designated education renewal zone.

(2) The state board may promulgate rules establishing criteria for the placement of schools in school improvement in a designated education renewal zone if insufficient funds exist to place all schools in school improvement in a designated education renewal zone.

(b) At its discretion, the division may include any school regardless of its eligibility under the criteria in § 6-15-2502(d)(3)(C)(i)-(vi) if it determines that on the basis of location, characteristics of its faculty or leadership, needs of the students, or other factors, that the inclusion of such a school significantly strengthens the prospect of the education renewal zone in meeting its school improvement goals.

(c) At its discretion, the division may change participating schools within each education renewal zone.

History. Acts 2003 (2nd Ex. Sess.), No. 106, § 1; 2007, No. 1573, § 21.

in (a), inserted “to the extent that funds are available” in present (1), added (2),

Amendments. The 2007 amendment,

and made related changes.

6-15-2504. School improvement plans — Development — Provisions — Implementation.

(a) Each school participating in an education renewal zone shall develop and implement a school improvement plan.

(b) Each school improvement plan shall at a minimum include the following:

(1) Goals for improving student achievement;

(2) Measurable benchmarks for achieving student improvement goals;

(3) A timeline for reaching goals in improving student achievement; and

(4) Requirements for services to be provided by the education renewal zone partners.

(c) The partners within a specific education renewal zone shall develop a strategic plan that is responsive to the needs of the individual school improvement plans.

(d) The education renewal zone strategic plan shall at a minimum provide for the following:

(1) Collaboration between and among the higher education institution partners, education service cooperatives, schools, and communities participating in the education renewal zone, including the academic departments within the higher education institution partners;

(2)(A) A comprehensive program of professional development to assure the practical knowledge base of pre-service and in-service teachers with respect to pedagogical practice, content knowledge, and competent use of distance learning technology.

(B) Funds received by school districts for the Department of Education Public School Fund Account for professional development may be used to provide funding for the professional development requirements of the education renewal zone school district partners;

(3) Enhancement and expansion of local school curricula offerings through the use of two-way interactive television to include advanced placement, dual-credit, and advanced high school courses;

(4) The sharing of faculty for core course offerings when schools are unable to hire highly qualified teachers in core subject areas required for college entrance or teachers necessary to meet state accreditation standards;

(5) A strategy to recruit and retain highly qualified teachers with particular focus on hard-to-staff schools;

(6) A system for mentoring teachers with three (3) or fewer years of professional service;

(7) Active participation of the community in the work of the school;

(8) Active involvement of parents in the academic work of the student; and

(9) A means of collecting the data necessary to evaluate the progress of each participating public school and the education renewal zone in its entirety.

History. Acts 2003 (2nd Ex. Sess.), No. 106, § 1.

6-15-2505. Annual report.

(a) Each education renewal zone, using guidelines and indicators set by the Division of Education Renewal Zones, shall prepare an annual report to the division describing the progress toward accomplishing the goals of the education renewal zone.

(b) The division shall prepare an annual report to the Governor, the General Assembly, and the State Board of Education describing the progress toward accomplishing the goals of the individual education renewal zones and the overall education renewal zone program.

(c) The division shall establish a website, accessible by the public, to provide for broad dissemination of both the education renewal zone plans and strategies and the results of the annual reports on progress toward accomplishing the goals of the individual education renewal zones and the overall education renewal zone program.

History. Acts 2003 (2nd Ex. Sess.), No. 106, § 1.

6-15-2506. Subchapter contingent on funding for education renewal zone program.

The provisions of this subchapter shall be contingent on the appropriation and availability of funding for the education renewal zone program.

History. Acts 2003 (2nd Ex. Sess.), No. 106, § 1.

SUBCHAPTER 26 — THE REWARDING EXCELLENCE IN ACHIEVEMENT PROGRAM

SECTION.

- 6-15-2601. Title.
- 6-15-2602. Legislative intent.
- 6-15-2603. Definitions.
- 6-15-2604. Rules.
- 6-15-2605. Application forms and procedures for the Rewarding Excellence in Achievement Program.
- 6-15-2606. Contents of Rewarding Excellence in Achievement plans.

SECTION.

- 6-15-2607. Staff development.
- 6-15-2608. Evaluation of participants.
- 6-15-2609. Reporting and continued funding.
- 6-15-2610. Construction with other state law.

6-15-2601. Title.

This subchapter shall be known and may be cited as the “Rewarding Excellence in Achievement Program Act of 2007”.

History. Acts 2007, No. 1029, § 1.

6-15-2602. Legislative intent.

It is the intent of the General Assembly to provide a pilot program affording public school districts and public charter schools the opportunity to develop teacher compensation plans tailored to the public school district’s or public charter school’s needs to accomplish the following:

- (1) Provide incentives that will encourage teachers to improve their knowledge and instructional skills in order to improve student learning;
- (2) Recruit and retain highly qualified teachers;
- (3) Encourage highly qualified teachers to undertake challenging assignments;
- (4) Support teachers’ roles in improving students’ educational achievements; and
- (5) Inform policymakers regarding the potential of a restructured teacher professional pay system to improve student achievement across the state.

History. Acts 2007, No. 1029, § 1.

6-15-2603. Definitions.

As used in this subchapter:

- (1)(A) “Knowledge and skill base portion of compensation” means that portion of a teacher’s compensation under a Rewarding Excellence in Achievement plan that considers, but is not limited to, input factors such as years of experience and degree levels, as set forth in a Rewarding Excellence in Achievement plan.

(B) This portion shall represent forty percent (40%) to sixty percent (60%) of the teacher's total compensation.

(2) "Local board" means a board of directors exercising the control and management of a public school district.

(3)(A) "Performance portion of compensation" means that portion of a teacher's compensation under a Rewarding Excellence in Achievement plan that considers, without limitation, output factors such as teacher evaluations and student performance in the teacher's class or in the teacher's school, as set forth in a Rewarding Excellence in Achievement plan.

(B) This portion shall represent forty percent (40%) to sixty percent (60%) of the teacher total compensation.

(4) "Rewarding Excellence in Achievement plan" means an alternative plan for teacher compensation developed by a public school, public school district, or public charter school and selected by the State Board of Education to participate in the Rewarding Excellence in Achievement Program pursuant to this subchapter.

History. Acts 2007, No. 1029, § 1.

6-15-2604. Rules.

The State Board of Education is authorized and directed to establish rules for the Rewarding Excellence in Achievement Program consistent with this subchapter.

History. Acts 2007, No. 1029, § 1.

6-15-2605. Application forms and procedures for the Rewarding Excellence in Achievement Program.

(a)(1)(A) A public school district or public charter school desiring to participate in the Rewarding Excellence in Achievement Program shall submit an application to the State Board of Education.

(B) A public school district may apply on behalf of a single school within the public school district that desires to participate in alternative pay.

(2)(A) The public school district or public charter school shall be selected through a competitive process.

(B) In selecting participants, the Department of Education shall consider qualified applicants from various locations and of various sizes and demographics.

(3) The state board may approve up to twelve (12) applications.

(b) The state board shall adopt:

(1) An application form, a schedule, and a procedure that must be used to apply for the Rewarding Excellence in Achievement Program; and

(2) Criteria to use in selecting public school districts and public charter schools to participate in the Rewarding Excellence in Achievement Program.

(c) The application form must provide space for including all information required under this subchapter to be contained in a Rewarding Excellence in Achievement plan.

(d) The application procedure shall provide for a phase-in process, beginning with a planning phase for a twelve-month minimum period, to allow applicants access to resources that would allow sufficient research of best practices and to garner community and staff support in submitting a Rewarding Excellence in Achievement plan.

(e)(1) In order to participate in the Rewarding Excellence in Achievement Program, a public school district or public charter school must have an approved comprehensive school improvement plan, as defined in § 6-15-419(9).

(2) Prior to full implementation of a Rewarding Excellence in Achievement plan, the comprehensive school improvement plan of the public school, public school district, or public charter school shall include:

(A) Assessment and evaluation tools to measure student performance and progress based on an achievement gains model;

(B) Performance goals and benchmarks for improvement;

(C) Measures of student attendance and completion rates;

(D) A rigorous professional development system consistent with the comprehensive school improvement plan defined in § 6-15-419(9) and student academic improvement plans as defined in § 6-15-419(2);

(E) Measures of student, family, and community involvement and satisfaction;

(F) A data reporting system about students and their academic progress that provides parents and the public with understandable information;

(G) A teacher induction and mentoring program for probationary teachers that provides continuous learning and sustained teacher support; and

(H) Substantial participation by teachers in developing the Rewarding Excellence in Achievement plan.

(f)(1) As part of the application process, participant schools shall conduct a vote of the teachers with the threshold for acceptance being seventy percent (70%) or another percent established by a majority vote of the teachers and approved by the local board.

(2)(A) A teacher in the participating school or school district may elect not to participate in the Rewarding Excellence in Achievement plan.

(B) If fifty-one percent (51%) or more of a participant school's teachers elect not to participate, the Rewarding Excellence in Achievement plan shall not be implemented.

(g)(1) All recipients of funds provided by the Rewarding Excellence in Achievement Program shall cooperate and share all school demographic and student achievement data with any state-sponsored evaluation of this program.

(2)(A)(i) A public school district or public charter school applicant shall form a committee to consist of public school administrators and teachers, the majority of whom shall be public school teachers.

(ii) The classroom teacher members of the committee shall be elected by a majority of the classroom teachers voting by secret ballot.

(iii) The election shall be solely and exclusively conducted by the classroom teachers, including the distribution of ballots to all classroom teachers.

(B) The committee shall be responsible for:

(i) Creating the school's Rewarding Excellence in Achievement plan; and

(ii)(a) Evaluating the school's Rewarding Excellence in Achievement plan.

(b) The committee shall report to its local board on the evaluation of the school's Rewarding Excellence in Achievement plan.

History. Acts 2007, No. 1029, § 1.

6-15-2606. Contents of Rewarding Excellence in Achievement plans.

(a) A Rewarding Excellence in Achievement plan approved for participation in the Rewarding Excellence in Achievement Program shall:

(1) Describe how teachers can achieve career advancement and additional compensation;

(2) Describe how the public school district or public charter school will provide teachers with career advancement options that allow teachers to retain primary roles in student instruction and facilitates site-focused professional development that helps other teachers improve their skills;

(3) Describe how the public school district or public charter school will prevent any teacher's compensation paid before implementing the pay system from being reduced as a result of initial implementation of the Rewarding Excellence in Achievement plan;

(4) Describe how the forty percent (40%) to sixty percent (60%) performance portion of compensation will be determined;

(5) Describe how the forty percent (40%) to sixty percent (60%) knowledge and skill base portion of compensation will be determined;

(6) Describe how the plan will reform the "steps and lanes" salary schedule;

(7) Describe how the public school district or public charter school will encourage a collaborative relationship among teachers; and

(8) Describe how, after full plan implementation, the alternative compensation system will be:

(A) Sustained; or

(B) Phased out if the Rewarding Excellence in Achievement plan evaluation reveals that the plan does not work for the school.

(b) Rewarding Excellence in Achievement plans approved for participation in the Rewarding Excellence in Achievement Program may

include provisions regarding the compensation for administrators and other staff members.

(c) Compensation increases for the performance portion of compensation, forty percent (40%) to sixty percent (60%) of the teacher's total compensation, under the Rewarding Excellence in Achievement plan shall include:

(1)(A) Achievement gains of students in each teacher's class on student scores under the statewide assessment program described in § 6-15-433.

(B) Locally selected and Department of Education-approved standardized assessment outcomes for students in each teacher's class may also be included;

(2) Achievement gains of students on a school-wide basis under the statewide assessment program described in § 6-15-433. Locally selected and Department of Education-approved standardized assessment outcomes may also be included; and

(3) The remaining percentage of the performance portion of compensation of the teacher's total compensation shall be based on an objective teacher evaluation program that includes:

(A) An individual objective teacher evaluation conducted by the school principal that is aligned with the comprehensive school improvement plan and professional development plan described in § 6-15-2607; and

(B) Peer objective evaluations using multiple criteria conducted by locally selected and periodically trained evaluators that understand teaching and learning and that include provisions for integrated ongoing site-based professional development activities to improve instructional skills and learning that are aligned with student needs under § 6-15-2009.

History. Acts 2007, No. 1029, § 1.

6-15-2607. Staff development.

(a) Staff development activities for a public school district or public charter school participating in the Rewarding Excellence in Achievement Program shall:

(1) Focus on the school classroom and research-based strategies that improve student learning;

(2) Provide opportunities for teachers to practice and improve their instructional skills over time;

(3) Provide opportunities for teachers to use student data as part of their daily work to increase student achievement;

(4) Enhance teacher content knowledge and instructional skills;

(5) Align with state academic standards;

(6) Provide opportunities to build professional relationships, foster collaboration among principals and staff who provide instruction, and provide opportunities for teacher-to-teacher mentoring; and

(7) Align with the Rewarding Excellence in Achievement plan of the public school district or public charter school.

(b) Staff development activities for school districts and public charter schools participating in the Rewarding Excellence in Achievement Program may include:

- (1) Curriculum development and curriculum training programs; and
- (2) Activities that provide teachers and other staff members training to enhance teacher, team, and school performance.

(c) The public school district or public charter school may implement other staff development activities associated with professional teacher compensation models.

History. Acts 2007, No. 1029, § 1.

6-15-2608. Evaluation of participants.

(a) The Department of Education shall commission an annual evaluation of the Rewarding Excellence in Achievement plan of each public school district and public charter school participating in the Rewarding Excellence in Achievement Program.

(b) An annual evaluation shall include without limitation consideration of:

- (1) Student scores under the statewide assessment program described in § 6-15-433;
- (2) Student attendance;
- (3) Student grades;
- (4) Incidents involving student discipline;
- (5) Socioeconomic data on students' families;
- (6) Parental satisfaction with the schools;
- (7) Student satisfaction with the schools; and
- (8) Correlations between student assessment gains and teacher degree levels, years of experience, staff development, and a school's status for having a qualified teacher in every public school classroom under § 6-15-1004.

History. Acts 2007, No. 1029, § 1.

6-15-2609. Reporting and continued funding.

(a)(1) In addition to the program evaluation required by § 6-15-2608, each participating school district or public charter school shall report on the implementation and effectiveness of its Rewarding Excellence in Achievement plan and make recommendations by August 15 each year to its local board.

(2) The local board shall transmit a copy of the report with a summary of the findings and recommendations of the public school district or public charter school to the Commissioner of Education.

(b)(1) If the commissioner determines that a public school district or public charter school that receives funding under the Rewarding Excellence in Achievement Program is not complying with the requirements of the Rewarding Excellence in Achievement Program, the

commissioner shall withhold further funding from that participant.

(2) Such withheld funds may be reallocated to other existing or new participants.

(3) Before making the determination to withhold funds, the commissioner shall notify the participant of any deficiencies and provide the participant an opportunity to comply with the requirements of the Rewarding Excellence in Achievement Program.

(c) At the end of the Rewarding Excellence in Achievement plan period, the commissioner shall present evaluation findings and recommendations to the State Board of Education, the House Education Committee, and the Senate Education Committee.

History. Acts 2007, No. 1029, § 1.

6-15-2610. Construction with other state law.

To the extent that the provisions of this subchapter or the terms of an approved Rewarding Excellence in Achievement plan directly conflict with any provision of § 6-17-201 et seq., the Teacher Fair Dismissal Act of 1983, § 6-17-1501 et seq., or the provisions of any other state law relating to the compensation of public school teachers, the provisions of this subchapter and the approved Rewarding Excellence in Achievement plan shall control.

History. Acts 2007, No. 1029, § 1.

CHAPTER 16 CURRICULUM

SUBCHAPTER

1. GENERAL PROVISIONS.
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11. CONSERVATION EDUCATION.
12. ADVANCED PLACEMENT AND ENDORSED CONCURRENT ENROLLMENT.
13. END-OF-COURSE SUCCESS INCENTIVE PROGRAM.

RESEARCH REFERENCES

A.L.R. Student's right to compel school officials to issue degree, diploma, or the like. 11 A.L.R.4th 1182.

State regulation of curriculum and instruction in private and parochial schools. 18 A.L.R.4th 649.

Am. Jur. 68 Am. Jur. 2d, Schools, § 283 et seq.

C.J.S. 79 C.J.S., Schools, § 485.

SUBCHAPTER 1 — GENERAL PROVISIONS

SECTION.

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- 6-16-129. Gun violence prevention.
- 6-16-130. Visual art or music.
- 6-16-131. Future art and music teachers pilot program.
- 6-16-132. Physical education.
- 6-16-133. World War II veterans.
- 6-16-134. Veterans diplomas.
- 6-16-135. Personal finance course content.
- 6-16-136. Statewide coordination of distance learning.
- 6-16-137. Physical education credit for physical activity courses.
- 6-16-138. [Repealed.]
- 6-16-139. Technology curriculum.

Effective Dates. Acts 1923, No. 397, § 3: approved Mar. 19, 1923. Emergency clause provided: "This act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist and this act shall take effect and be in force from and after its passage."

Acts 1931, No. 169, § 198: approved Mar. 25, 1931. Emergency clause provided: "It is found as a fact that the advent of the automobile, and the great improvement in the roads of the State have worked great changes in the system of administering the public schools of the State, and there is occasion to change the boundaries of many such districts before the end of the current school term, to relieve many of them of pressing indebtedness, to immediately administer to the health of many pupils in the schools, and to distribute State Funds to many of the schools in the near future to prevent some of them from having to close for the lack of funds; therefore, it is necessary that this

act take immediate effect for the preservation of public peace, health, and safety; therefore, an emergency is declared and this act shall take effect and be in force immediately after its passage."

Acts 1981, No. 732, § 11: July 1, 1981. Emergency clause provided: "It is hereby found and determined by the Seventy-Third General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1981 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1981 could work irreparable harm upon the proper administration and providing of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in

full force and effect from and after July 1, 1981.”

Acts 1997, No. 112, § 40: Feb. 7, 1997. Emergency clause provided: “It is hereby found and determined by the General Assembly that Act 10 of the First Extraordinary Session of 1995 abolished the Joint Interim Committee on Education and in its place established the House Interim Committee and Senate Interim Committee on Education; that various sections of the Arkansas Code refer to the Joint Interim Committee on Education and should be corrected to refer to the House and Senate Interim Committees on Education; that this act so provides; and that this act should go into effect immediately in order to make the laws compatible as soon as possible. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto.”

Acts 1997, No. 787, § 9: Mar. 24, 1997. Emergency clause provided: “It is hereby found and determined by the General Assembly that the Arkansas Code does not now require Arkansas history to be taught in the public schools in this state; that Arkansas history is not being taught in all public schools in this state; that such failure must be addressed as soon as possible; that this act establishes the mechanism to ensure that Arkansas history is taught in each public school in this state

and that this act should go into effect immediately in order that it might be implemented in the 1997-98 school year. Therefore an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto.”

Acts 1999, No. 1078, § 92: July 1, 2000.

Acts 2005, No. 245, § 2: effective by its own terms June 1, 2005.

Acts 2005, No. 245, § 3: Feb. 22, 2005. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that beginning on June 1, 2005, school districts will be required to offer one (1) full hour of art and music to students in grades one through six (1-6); that one (1) hour class periods are not compatible with usual schedules used by school districts; and that school districts need sufficient time to hire staff, arrange schedules, allocate space, and purchase supplies based upon the changes made by this act. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

6-16-101. Celebrate Freedom Week.

(a) To educate students about the sacrifices made for freedom in the founding of this country and the values on which this country was founded, the last full week of classes in September in Arkansas public schools shall be recognized as “Celebrate Freedom Week”.

(b)(1) During Celebrate Freedom Week, all social studies classes shall include instruction as determined by each school in each social studies class.

(2) It is recommended that the instructions include discussion about the meaning and importance of the Declaration of Independence and the United States Constitution, with an emphasis on the Preamble and the Bill of Rights, in the document’s historical context.

(3) It is suggested that a study of the Declaration of Independence include exercises related to the relationship of the ideas expressed in that document to subsequent American history, including the relationship among ideas contained in the document and the rich diversity of our people as a nation of immigrants, the American Revolution, the formulation of the United States Constitution, the abolitionist movement and how it led to the adoption of the Emancipation Proclamation, and the women’s suffrage movement.

History. Acts 2003, No. 682, § 1.

Publisher’s Notes. Former § 6-16-101, concerning school term length, was repealed by Acts 1993, No. 294, § 10. The

section was derived from Acts 1931, No. 169, § 167; Pope’s Dig., § 11609; A.S.A. 1947, § 80-1601.

6-16-102. School day.

(a)(1) As used in this section, “school day” shall mean a day in which classes are in session and students receive at least six (6) hours of instructional time.

(2) Any day in which less than six (6) hours of instructional time are provided to students shall be counted as one-half (½) of a school day if at least three (3) hours of instructional time are provided to students.

(3) Any day in which less than three (3) hours of instructional time are provided to students shall not be counted as any part of a school day.

(4) A school district may include as part of the school day the travel time between public schools or other educational programs of those students attending classes or programs authorized by law.

(b) Notwithstanding subsection (a) of this section, the State Board of Education shall promulgate regulations to prescribe the credit to be given students for attending school for only a portion of a school day because the school is closed due to emergency circumstances which would be hazardous to the health of the students. The state board shall also identify the emergency circumstances.

History. Acts 1983 (Ex. Sess.), No. 45, § 1; 1985, No. 1015, § 1; A.S.A. 1947, § 80-1602; Acts 1999, No. 391, § 5; 2005, No. 2151, § 15.

Amendments. The 2005 amendment

substituted “at least” for “fewer than” in (a)(1); substituted “are” for “is” twice in (a)(2) and in (a)(3); and added (a)(4).

Cross References. Compulsory attendance — Exceptions, § 6-18-201.

CASE NOTES

Cited: Doe v. Human, 725 F. Supp. 1503 (W.D. Ark. 1989).

6-16-103. Course of study generally.

(a) There shall be taught in all of the public or elementary schools of this state such subjects as may be designated by the State Board of Education or as required by law.

(b) Nothing in this section shall be construed to prohibit the inclusion of additional subjects in the state course of study or in any course formulated for a school district and approved by the state board.

(c)(1) Each year no later than twenty (20) days prior to the date that students are required to register for classes to be taken in grades nine through twelve (9-12), the school district shall mail to every parent a letter notifying the parent of the school district's obligation to offer certain classes and a list of classes that are required to be taught by the school district under the state board's standards for accreditation.

(2) The school district shall indicate any classes that are required to be taught each year and classes that may be taught every other year.

(3) If the school district offers classes on alternating years, the notice shall indicate in which school year or years the classes will be offered.

History. Acts 1931, No. 169, § 167;
Pope's Dig., § 11609; A.S.A. 1947, § 80-
1601; Acts 2003, No. 1759, § 1.

6-16-104. Basic language of instruction.

(a) The basic language of instruction in the public school branches in all the schools of the state, public and private, shall be the English language only.

(b) It shall be the duty of the Commissioner of Education, the Director of the Department of Workforce Education, and city superintendents to see that the provisions of this section are carried out.

(c) Any person violating the provisions of this section shall be guilty of a violation and upon conviction shall be fined not to exceed twenty-five dollars (\$25.00), payable into the general school fund of the county.

(d) Each day this violation occurs shall be considered a separate offense.

History. Acts 1931, No. 169, § 168;
Pope's Dig., §§ 3590, 11610; A.S.A. 1947,
§ 80-1605; Acts 1999, No. 1323, § 18;
2005, No. 1994, § 61.

Amendments. The 2005 amendment
substituted "violation" for "misdemeanor"
in (c).

6-16-105. United States flag.

(a) The directors of any school district shall:

(1) Expend a reasonable sum from the funds of the school district for an American flag and for the erection of a suitable flagstaff on the schoolhouse or school grounds;

(2) See to it that the pupils are instructed in the etiquette of the flag;
and

(3) Cause the flag to be displayed on the flagstaff during school hours when the weather permits.

(b) It shall be the duty of the school authorities of every public or private school in this state to procure a suitable United States flag, flagstaff, and the necessary appliances therefor and to require such flag to be displayed, with all proper courtesy, upon, near, or in the school buildings during the hours of school session and at such other times as the school authorities may direct.

History. Acts 1923, No. 614, § 1; 1931, 11615, 11729; A.S.A. 1947, §§ 80-1603, No. 169, § 173; Pope's Dig., §§ 3599, 80-1604.

CASE NOTES

Cited: Allred v. Arkansas Dep't of Cor. Sch. Dist., 322 Ark. 772, 912 S.W.2d 4 (1995).

6-16-106. Arkansas flag.

(a) The official Arkansas flag shall be displayed on the schoolhouse or school grounds of every public school in this state.

(b) The Arkansas flag shall be displayed on the same staff or pole as the American flag and shall be positioned immediately below the American flag.

(c) It shall be the duty of the board of directors of every public school district in this state to procure a suitable Arkansas flag for each school and to require the flag to be displayed in the manner required in subsections (a) and (b) of this section.

History. Acts 1963, No. 237, §§ 1, 2; A.S.A. 1947, §§ 80-1632, 80-1633.

6-16-107. Patriotic observances generally.

(a) February 22, as the birthday of George Washington, and January 19, as the birthday of Robert E. Lee, and such other days as may be designated by the State Board of Education for patriotic observance shall be observed with appropriate exercises.

(b) Nothing in this section shall be construed as authorizing the closing of any school on such days without consent of the board of directors of the school district.

History. Acts 1931, No. 169, § 175; Pope's Dig., § 11617; A.S.A. 1947, § 80-1608.

6-16-108. Recitation of the Pledge of Allegiance.

(a) The State Board of Education shall adopt a policy to require that public school students in grades kindergarten through twelve (K-12)

participate in a daily recitation of the Pledge of Allegiance during the first class of each school day.

(b) The policy shall:

(1) Require that at the time designated for the recitation of the Pledge of Allegiance students shall stand and recite the Pledge of Allegiance while facing the flag with their right hands over their hearts or in an appropriate salute if in uniform;

(2)(A) Provide that no student shall be compelled to recite the Pledge of Allegiance if the student or the student's parent or legal guardian objects to the student's participating in the exercise on religious, philosophical, or other grounds.

(B) Students who are exempt from reciting the Pledge of Allegiance under subdivision (b)(2)(A) of this section shall be required to remain quietly standing or sitting at their desks while others recite the Pledge of Allegiance;

(3)(A) Provide that teachers or other school staff who have religious, philosophical, or other grounds for objecting are exempt from leading or participating in the exercise.

(B) If a teacher chooses not to lead the Pledge of Allegiance, the policy shall require that another suitable person shall be designated either by the teacher or principal to lead the class; and

(4) Require the school to provide appropriate accommodations for students, teachers, or other staff who are unable to comply with the procedures described in this section due to disability.

History. Acts 2003, No. 1333, § 1.

Publisher's Notes. Former § 6-16-108, concerning Armistice Day as a holiday, was repealed by Acts 1993, No. 475,

§ 2. The former section was derived from Acts 1941, No. 348, §§ 1, 2; A.S.A. 1947, §§ 80-1609, 80-1610.

RESEARCH REFERENCES

U. Ark. Little Rock L. Rev. Survey of Legislation, 2003 Arkansas General As-

sembly, Education Law, School Rules, 26 U. Ark. Little Rock L. Rev. 383.

6-16-109, 6-16-110. [Repealed.]

Publisher's Notes. These sections, concerning teaching history, civics, and the United States Constitution, including devotion to American institutions and ideals, were repealed by Acts 1993, No. 475, §§ 3, 4 respectively. They were derived from the following sources:

6-16-109. Acts 1923, No. 614, §§ 2, 3, 5; Pope's Dig., §§ 3600, 3601, 3603, 11730, 11731, 11733; Acts 1957, No. 355, § 1; 1959, No. 290, § 1; A.S.A. 1947, §§ 80-1613, 80-1614, 80-1616.

6-16-110. Acts 1923 (1st Ex. Sess.), No. 31, §§ 1-5.

6-16-111. **Morals, manners, patriotism, and business and professional integrity.**

Curricula in morals, manners, patriotism, and business and professional integrity shall be included in the course of study for the state public schools.

History. Acts 1923, No. 397, §§ 1, 2; 1993, No. 294, § 10.

6-16-112 — 6-16-117. [Repealed.]

Publisher's Notes. These sections, concerning conservation, natural resources, and nature study; elementary agriculture and horticulture; physical training; the effect of alcohol and narcotics; fire prevention; and Bird Week, were repealed by Acts 1993, No. 475, §§ 5-10. They were derived from the following sources:

6-16-112. Acts 1939, No. 312, §§ 2-6; A.S.A. 1947, §§ 80-1621 — 80-1625.

6-16-113. Acts 1909, No. 315, §§ 1-5, p. 934.

Section 6-16-113 was also repealed by Acts 1993, No. 294, § 10.

6-16-114. Acts 1931, No. 169, § 195; Pope's Dig., § 11637; A.S.A. 1947, § 80-1617.

6-16-115. Acts 1937, No. 168, §§ 1, 2; Pope's Dig., §§ 11794, 11795; A.S.A. 1947, §§ 80-1618, 80-1619.

6-16-116. Acts 1927, No. 147, § 1; Pope's Dig., §§ 7639, 11779; A.S.A. 1947, § 80-1626.

6-16-117. Acts 1947, No. 83, §§ 1, 2; A.S.A. 1947, §§ 80-1611, 80-1612.

6-16-118. General Educational Development testing for adults.

(a) General Educational Development tests for adults shall be administered by the educational agencies and institutions approved by the Department of Workforce Education and the American Council on Education.

(b) The State Board of Workforce Education and Career Opportunities is authorized to approve fees only for the administering of the test, not to exceed ten dollars (\$10.00) the first time and twenty dollars (\$20.00) for the second and subsequent tests.

History. Acts 1981, No. 732, § 4; A.S.A. 1947, § 80-1671; Acts 1993, No. 294, § 10; 1993, No. 1079, § 1; 1999, No. 1078, § 56.

Effective Dates. Acts 1999, No. 1078, § 92: July 1, 2000.

6-16-119. [Repealed.]

Publisher's Notes. This section, concerning silent meditation and reflection, was repealed by Acts 1993, No. 475, § 11. The section was derived from Acts 1985

(1st Ex. Sess.), No. 14, § 1; 1985 (1st Ex. Sess.), No. 28, § 1; A.S.A. 1947, § 80-1607.1.

6-16-120. Academic credit for community service.

(a) Beginning with the 1996-1997 school year, a student who has completed a minimum of seventy-five (75) clock hours of documented community service in grades nine through twelve (9 - 12), as certified by the service agency or organization to the school, shall be eligible to receive one (1) academic credit that may be applied toward graduation.

(b) The community service shall be in programs or activities approved by the State Board of Education and the local school board of directors and shall include preparation, action, and reflection components.

(c) A local school board of directors may grant a waiver of this requirement with notice to the state board.

(d) The state board is hereby authorized to promulgate rules and regulations necessary for the implementation of this section.

History. Acts 1993, No. 648, § 1.

6-16-121. African-American history — Teaching materials.

(a) The Commissioner of Education shall develop the materials or units for the teaching of historical contributions made by African-Americans in the United States and in other countries prior to the establishment of the United States for inclusion in the appropriate curricula of all kindergarten through grade twelve (K-12) of all public schools in the State of Arkansas, beginning with the 1994-1995 school year.

(b) The commissioner shall ensure that these materials or units are reproduced and sent to all school districts in the state.

History. Acts 1993, No. 963, § 1; 1995, No. 1296, § 19.

6-16-122. American heritage.

(a) Local school boards of directors shall allow any teacher or administrator in a public school district of this state to read or post in a public school building, classroom, or event any excerpts or portions of:

- (1) The Preamble to the Arkansas Constitution;
- (2) The Declaration of Independence;
- (3) The United States Constitution;
- (4) The Mayflower Compact;
- (5) The national motto;
- (6) The national anthem;
- (7) The Pledge of Allegiance;
- (8) The writings, speeches, documents, and proclamations of the founding fathers and Presidents of the United States;
- (9) Organic documents from the pre-Colonial, Colonial, Revolutionary, Federalist, and post-Federalist eras;
- (10) United States Supreme Court decisions; and
- (11) Acts of the United States Congress.

(b) There shall be no content-based censorship of American history or heritage in this state based on religious or other references in these writings, documents, and records.

(c) A copy of this section shall be distributed to the superintendent of each school district in the state by the Department of Education, whereupon the superintendents then shall provide a copy to each teacher and each school board member.

History. Acts 1995, No. 295, §§ 1, 2; 2003, No. 290, § 1.

RESEARCH REFERENCES

U. Ark. Little Rock L. Rev. Survey of Legislation, 2003 Arkansas General Assembly, Education Law, School Rules, 26 U. Ark. Little Rock L. Rev. 383.

6-16-123. [Repealed.]

Publisher’s Notes. This section, concerning Arkansas laws, was repealed by Acts 2007, No. 1573, § 51. The section was derived from Acts 1995, No. 1097, § 1; 1997, No. 112, § 7.

6-16-124. Arkansas history — Required social studies course.

(a) Beginning with the 1997-1998 school year:

(1) A unit of Arkansas history shall be taught as a social studies subject at each elementary grade level in every public elementary school in this state, with greater emphasis at the fourth and fifth grade levels; and

(2) At least one (1) full semester of Arkansas history shall be taught to all students at the seventh, eighth, ninth, tenth, eleventh, or twelfth grade level in every public secondary school in this state.

(b)(1) Course guidelines shall ensure that the courses represent the most accurate and historically sound account of the prehistory, history, and culture of Arkansas, including the significant contributions and achievements of all segments of the population.

(2) Any revisions in the Arkansas history course content guidelines shall be reported to the public schools and the House Interim Committee on Education and the Senate Interim Committee on Education no later than July 1 of the year the course guidelines are to be implemented.

History. Acts 1997, No. 787, §§ 1, 2, 5; 2007, No. 1573, § 52. 124(b) and (c), respectively.

A.C.R.C. Notes. Former §§ 6-16-125 and 6-16-126 are now codified as § 6-16-124(b) and (c), respectively. **Amendments.** The 2007 amendment deleted former (c).

6-16-125. [Repealed.]

Publisher’s Notes. This section, concerning character and citizenship and education programs information clearinghouse, was repealed by Acts 2007, No. 1573, § 53. The section was derived from Acts 1997, No. 631, §§ 1, 2.

6-16-126. Food handling safety — Instructional materials clearinghouse.

(a) The General Assembly finds and acknowledges that food-borne illness is a growing concern throughout the United States. The General Assembly also finds that school-age children may be particularly affected by food-borne illness due to their employment in fast food restaurants and due to preparation of food at home by students who have both parents working outside of the home. The General Assembly

further finds that education in food-borne illness must be strengthened in public schools to ensure the health and safety of all children.

(b)(1) The Commissioner of Education shall provide a clearinghouse for instructional materials on food handling safety. These materials shall be developmentally appropriate for students at each of the three (3) grade clusters used in the Arkansas Health Framework: kindergarten through grade four (K-4); grades five through eight (5-8); and grades nine through twelve (9-12).

(2) The commissioner shall encourage collaborative efforts between the Department of Education and other agencies and organizations in accessing developmentally appropriate instructional materials on food handling safety.

(3) The commissioner shall ensure that any instructional materials on food handling safety accessible to public schools through this clearinghouse shall be in alignment with the Arkansas Health Framework in dealing with health promotion and disease prevention; health information, products, and services; health behaviors and health risks; health-enhancing skills, and personal, family, and community health.

History. Acts 1997, No. 1274, §§ 1, 2.

Former §§ 6-16-125 and 6-16-126 are

A.C.R.C. Notes. Former §§ 6-16-129 and 6-16-130 are now codified as § 6-126(a) and (b), respectively.

now codified as § 6-16-124(b) and (c), respectively.

6-16-127. Arkansas Foreign Language Teacher Training Program.

(a) This section and § 6-16-128 shall be known as "The Arkansas Foreign Language Act of 1999".

(b) There is hereby created the Arkansas Foreign Language Teacher Training Program. The purpose of this program is to:

(1) Encourage undergraduate students who intend to teach in the state's public schools to pursue a foreign language degree;

(2) Encourage currently certified foreign language teachers to pursue additional training or an advanced degree in a foreign language;

(3) Encourage certified personnel to add foreign language to their areas of certification; and

(4) Encourage individuals to seek certification as a foreign language teacher in grades kindergarten through eight (K-8).

(c) The Department of Higher Education, in consultation with the Department of Education and representatives of the state's foreign language educators, shall develop a request-for-proposals process whereby Arkansas institutions of higher education with teacher training programs may apply for funding, not to exceed three (3) years, to enhance their foreign language teacher training program.

(d)(1) The awards granted under the provisions of this section and § 6-16-128 may be funded by donations, grants, or legislative appropriation.

(2) All donations, grants, and appropriations received shall be accounted for by the Department of Higher Education.

(3) The Director of the Department of Higher Education may solicit and receive donations and grants for the purpose of making awards.

(4) The provisions of this section and § 6-16-128 shall be contingent on the appropriation and funding necessary to allow the Department of Higher Education to carry out the duties assigned it in this section and § 6-16-128.

History. Acts 1999, No. 1573, §§ 1, 2. and 6-16-128 are now codified as § 6-16-125(a) and (b), respectively.
A.C.R.C. Notes. Former §§ 6-16-127

6-16-128. Arkansas Early Grades Foreign Language Pilot Program.

(a) There is hereby created the Arkansas Early Grades Foreign Language Pilot Program. The purpose of this program is to encourage the development of new foreign language programs for students in kindergarten through grade six (K-6), with an emphasis on Spanish.

(b) The Department of Education, in consultation with the Department of Higher Education and representatives of the state's foreign language educators, shall develop a request-for-proposals process whereby public schools serving students in kindergarten through grade six (K-6) may apply for funding, not to exceed three (3) years, to establish a foreign language training program, with an emphasis on Spanish.

(c)(1) The awards granted under the provisions of this section and § 6-16-127 may be funded by donations, grants, or legislative appropriation.

(2) The Commissioner of Education may solicit and receive donations and grants for the purpose of making awards.

(3) All donations, grants, and appropriations received shall be accounted for by the Department of Education.

(4) The provisions of this section and § 6-16-127 shall be contingent on the appropriation and funding necessary to allow the Department of Education to carry out the duties assigned to it in this section and § 6-16-127.

History. Acts 1999, No. 1573, § 3. and 6-16-128 are now codified as § 6-16-125(a) and (b), respectively.
A.C.R.C. Notes. Former §§ 6-16-127

6-16-129. Gun violence prevention.

(a) The board of directors of every public school in the state may declare one (1) week in October of each academic year to be Gun Violence Prevention Week for grades kindergarten through six (K-6).

(b) Any school in the state may develop and present an awareness program or participate in other activities for the purpose of diminishing gun violence.

History. Acts 2001, No. 624, § 1.

6-16-130. Visual art or music.

(a)(1) By no later than June 1, 2002, every public elementary school in the state shall provide instruction in visual art or music based on the state visual art and music frameworks for a period of not less than forty (40) minutes each calendar week of the school year.

(2)(A) Every student in grades one through six (1-6) shall be allowed to participate in the visual art or music class required in this subsection.

(B) Children with disabilities or other special needs shall be included in the visual art and music programs.

(3) Prior to June 1, 2005, the instruction required by this subsection may be provided by a volunteer or by a certified teacher.

(4) The Department of Education shall provide a stipend of not less than one hundred dollars (\$100) per class to each school for the purchase of necessary supplies or equipment for the classes required by this subsection.

(b)(1) By no later than June 1, 2005, every public elementary school in the state shall provide instruction for no less than forty (40) minutes in visual art and no less than forty (40) minutes in music based on the state visual art and music frameworks each calendar week of the school year or an equivalent amount of time in each school year.

(2)(A) Every student in grades one through six (1-6) shall participate in the visual art and music class required in this subsection.

(B) Children with disabilities or other special needs shall be included in the visual art and music programs.

(3) The instruction required by subdivision (b)(1) of this section shall be provided by a licensed teacher certified to teach art or music, as applicable.

(4)(A) The department shall provide a stipend of not less than one hundred dollars (\$100) per class to each school for the purchase of necessary supplies or equipment for the classes required by this subsection.

(B) Subdivision (b)(4)(A) of this section shall be contingent on the appropriation and availability of funding for that purpose.

History. Acts 2001, No. 1506, § 1; 2005, No. 245, § 1.

Amendments. The 2005 amendment, in (b)(1), inserted “for no less than forty (40) minutes,” “no less than forty (40) minutes in” and “or an equivalent amount of time in each school year” and deleted “for a period of not less than one (1) hour” following “music frameworks”; redesignated former (b)(4) as present (b)(4)(A); substituted “subsection (b) of this section” for “this subsection” in present (b)(4)(A); and added (b)(4)(B).

Effective Dates. Acts 2005, No. 245, § 2, provided: “This act shall be effective on June 1, 2005, for the 2005-2006 school year.”

RESEARCH REFERENCES

U. Ark. Little Rock L. Rev. Survey of Legislation, 2005 Arkansas General As-

sembly, Education Law, 28 U. Ark. Little Rock L. Rev. 347.

6-16-131. Future art and music teachers pilot program.

(a) By no later than June 1, 2002, the Department of Education shall develop and implement a Future Art and Music Teachers Pilot Program.

(b) The program shall provide in at least six (6) schools in the state a program through which students in grades eleven (11) and twelve (12) may provide visual art and music instruction to students in grades kindergarten through six (K-6).

History. Acts 2001, No. 1506, § 2.

6-16-132. Physical education.

(a) The General Assembly finds that:

(1) Research has shown that active children become active adults;

(2) Children who engage in physical education at school are twice as likely to engage in physical activity outside of school;

(3) Research has shown that physical exercise contributes to maximizing brain function by increasing cerebral blood flow and levels of brain cell growth hormone; and

(4) Research has shown that physical exercise decreases the incidence of clinical depression, even for persons diagnosed with cancer.

(b)(1)(A) The physical education curriculum and physical activity requirements for every public school student who is physically fit and able to participate are:

(i) Except as provided in subdivision (b)(1)(A)(ii) of this section, for students in kindergarten through grade six (K-6):

(a) Sixty (60) minutes of physical education training and instruction each calendar week of the school year; and

(b) Ninety (90) minutes of physical activity each calendar week of the school year, which may include without limitation daily recess, physical education instruction in addition to the requirement of subdivision (b)(1)(A)(i)(a) of this section, or intramural sports;

(ii) For students in grades five through eight (5-8) who attend a public school organized to teach grades five through eight (5-8), or any combination thereof, sixty (60) minutes of physical education training and instruction each calendar week of the school year or an equivalent amount of time in each school year, with no additional requirement for physical activity; and

(iii) For students in grades nine through twelve (9-12), one-half (½) unit of physical education as required for high school graduation, with no additional requirement for physical activity.

(B) Nothing in subdivision (b)(1)(A) of this section prohibits:

(i) A public school student's elective enrollment or voluntary participation in physical activity or physical education as a part of public school curriculum or extra-curricular activities; or

(ii) A school district's decision to require physical education instruction or physical activity in excess of the amounts identified in subdivision (b)(1)(A) of this section.

(2) The physical education training and instruction shall be designed to:

- (A) Improve the health of this state's school children;
- (B) Increase knowledge about the health benefits of physical activity and exercise;
- (C) Develop behavioral and motor skills that promote a lifelong commitment to healthy physical activity;
- (D) Promote health-focused physical activity among children and adolescents; and
- (E) Encourage physical activity outside of physical education.

(3) Suitable modified courses shall be provided for students physically or mentally unable or unfit to take the course or courses prescribed for other pupils.

(4)(A) A student may be exempted from physical education and physical activity requirements by seeking a waiver from the local school board of directors.

(B) The local school board of directors may grant such a waiver based on the following criteria:

(i) The student must present a statement by the student's attending physician indicating that participation in physical education and physical activity will jeopardize the student's health and well-being; or

(ii)(a) The parent and student must show that attending physical education classes will violate the student's religious beliefs and would not be merely a matter of personal objection.

(b) The parent or student must be members of a recognized religious faith that objects to physical education as part of its official doctrine or creed.

(c) The local school board of directors shall encourage a student granted a waiver under subdivision (b)(4) of this section to take, as an alternative to physical education, appropriate instruction in health education or other instruction in lifestyle modification if an exemption is granted pursuant to this section.

(d) Each school shall develop a physical education program that fits effectively and efficiently into the school's existing organization while incorporating the goals of this section.

(e) Nothing in this section shall be construed to require any school or school district to hire personnel certified in physical education.

(f) The State Board of Education shall submit to the House Interim Committee on Education and the Senate Interim Committee on Education for the committees' review any proposed rules regarding physical education or physical activity standards for grades kindergarten through twelve (K-12) developed pursuant to this section that exceed the maximums identified in subdivision (b)(1) of this section.

History. Acts 2001, No. 1748, §§ 1, 2; 2003, No. 1729, § 1; 2007, No. 317, §§ 1, 2; 2007, No. 1573, § 54.

A.C.R.C. Notes. Acts 2007, No. 1573,

§ 54 repealed the former subsection (f). Subsection (f) as set out above was added by Acts 2007, No. 317, § 2.

Amendments. The 2007 amendment

(3) Have served a minimum of eighteen (18) consecutive months' active duty or have been discharged with a service-connected disability, if:

(A) A veteran of the Korean War who served between June 1, 1950, and January 1, 1954; or

(B) A veteran of the Vietnam War who served between July 3, 1965, and May 15, 1975.

(d)(1) The State Board of Education shall adopt rules and regulations to implement the provisions of this section.

(2) The state board shall consult with the Department of Veterans Affairs in developing rules and regulations to implement the provisions of this section.

History. Acts 2003, No. 453, § 1.

6-16-135. Personal finance course content.

(a) The Department of Education, in consultation with the Department of Workforce Education, subject to the approval of the State Board of Education, shall develop personal finance course content guidelines and recommend textbooks to be used in a personal finance course.

(b) The course content shall include, but not be limited to, household budgets creation, checking accounts maintenance, basic consumer finance, debt management, credit management, insurance, and taxes.

History. Acts 2003 (2nd Ex. Sess.), No. 42, § 1.

A.C.R.C. Notes. As enacted, subdivision (a)(1) began: "By May 1, 2004, the".

As enacted, this section contained additional language which read: "Textbook

recommendations shall be provided to each school district and the House Interim Committee on Education and the Senate Interim Committee on Education no later than May 30, 2004."

6-16-136. Statewide coordination of distance learning.

(a) The General Assembly finds that:

(1) Arkansas public schools face a serious shortage of teachers;

(2) Educational technology can help lift the burden of teacher shortages by making distance learning available across the state; and

(3) Distance learning should be available to every Arkansas student who wishes to participate.

(b)(1)(A) The Department of Education shall promulgate the rules necessary for efficient scheduling of courses offered by public schools through distance learning technologies.

(B) The rules shall apply beginning for the 2004-2005 school year.

(2) A public school that offers courses through distance learning technologies shall comply with the rules promulgated pursuant to this section.

History. Acts 2003 (2nd Ex. Sess.), No. 53, § 1.

6-16-137. Physical education credit for physical activity courses.

(a) For the purposes of this section:

(1) "Content standards" means those curriculum course content standards identified and set out in the Department of Education curriculum frameworks;

(2) "Curriculum frameworks" means those content-specific requirements identified and mandated pursuant to §§ 6-15-1501 [repealed] and 6-15-1502 et seq. and the Standards for Accreditation of Arkansas Public Schools and School Districts;

(3) "Organized physical activity course" means a school course that:

(A) Is taught by an instructor who is licensed or qualified in physical education pursuant to the rules of the State Board of Education; and

(B) Involves body movement produced by skeletal muscles resulting in energy expenditures through organized group or class activities; and

(4) "Statement of assurance" means a written statement to be filed by the superintendent or chief academic officer with the Department of Education by October 1 of each school year that ensures that the organized physical activity course is in compliance with the physical education course content standards and curriculum frameworks as required pursuant to § 6-15-1505 and subdivision (b)(2) of this section.

(b) Beginning in the 2005-2006 school year, a student in grades nine through twelve (9-12) participating in and successfully completing an organized physical activity course in his or her school shall be eligible to receive one-half ($\frac{1}{2}$) unit of physical education credit required for graduation if:

(1) The organized physical activity course is aligned to the department's physical education course content standards and curriculum frameworks; and

(2) The organized physical activity course is verified by the superintendent of the school district or the chief administrative officer of an open-enrollment charter school who files a written statement of assurance with the department by October 1 of the school year as required under § 6-15-1505 stating that:

(A) The instructor of the organized physical activity course is licensed or qualified in physical education pursuant to the rules of the state board;

(B) The organized physical activity course is aligned to the department's physical education course content standards and curriculum frameworks; and

(C) The organized physical activity course is subject to the provisions of § 6-18-501 et seq.

(c) A student is limited to only the one-half ($\frac{1}{2}$) unit of physical education credit for graduation for the organized physical activity course, and the student shall not be allowed any other credit toward graduation for that same course.

(d) A student must complete the entire semester and pass the physical activity course to receive the one-half (½) unit of physical education credit required for graduation.

(e) The organized physical activity course shall take place during the regular school day to qualify for physical education credit, except for those organized physical activity courses outside the regular school day that are listed on the school district's master schedule.

(f)(1) If it is determined by the department that any organized physical activity course allowed to be used for physical education credit by a student does not meet the department's physical education course content standards and curriculum frameworks, as required under this section, the school district or open-enrollment charter school may be cited or placed in probationary violation of the Standards for Accreditation of Arkansas Public Schools and School Districts under The Quality Education Act of 2003, § 6-15-201 et seq.

(2) If it is determined by the department that a superintendent or chief academic officer or any other certified personnel has knowingly provided false or misleading information in the statement of assurance required under this section, the state board may take appropriate action on the license of that individual pursuant to § 6-17-410.

(g) The department is authorized to monitor, review documentation, request information, or require additional reports from public schools, school districts, open-enrollment charter schools, or school personnel to enforce compliance with the requirements of this section.

(h) Notwithstanding the provisions of this section, it is recognized that organized physical activity courses as set forth under subsection (b) of this section are not a requirement for an adequate education and shall not be considered a core academic requirement of the State of Arkansas or of public school districts.

(i) The state board may promulgate rules necessary to implement this section.

History. Acts 2005, No. 660, § 1.

6-16-138. [Repealed.]

Publisher's Notes. This section, concerning academic credit for student mentoring, was repealed by Acts 2007, No.

1573, § 55. The section was derived from Acts 2005, No. 2150, § 1.

6-16-139. Technology curriculum.

(a) In order to prepare public school students in the State of Arkansas for successful participation in a growing knowledge-based economy and technology-rich world and to improve student achievement, the public school curriculum must integrate technology into the educational process.

(b)(1) In order to further the intent of this section, the Arkansas Science and Technology Authority shall develop a knowledge-based technology curriculum for use in grades seven through twelve (7-12).

The curriculum shall be organized into a scope and sequence that constitutes a plan for achieving the educational objectives necessary for an adequate education as described in § 6-20-2302 and shall include the following components for each course in the curriculum:

- (A) A collection of the substantive material used to teach a particular subject matter;
 - (B) Lesson plans; and
 - (C) Recommendations for activities and other learning processes.
- (2) The curriculum shall be developed in sufficient time to allow for implementation in the 2007-2008 school year.

History. Acts 2005, No. 2266, § 1.

SUBCHAPTER 2 — KINDERGARTEN GENERALLY

SECTION.	SECTION.
6-16-201. Kindergarten — Availability in each school district.	6-16-202. [Repealed.]
	6-16-203. Readiness testing.

6-16-201. Kindergarten — Availability in each school district.

All school districts in the State of Arkansas shall offer a kindergarten program and make it available to all eligible children within the boundary of each school district.

History. Acts 1983, No. 375, § 1; A.S.A. 1947, § 80-1646a.

6-16-202. [Repealed.]

Publisher’s Notes. This section, concerning kindergarten instructional materials, was repealed by identical Acts 1995, Nos. 280 and 605, § 14. The section was derived from Acts 1979, No. 105, §§ 1, 2; A.S.A. 1947, §§ 80-1646.1, 80-1646.2; Acts 1987, No. 73, § 1. For present law, see § 6-21-401 et seq.

6-16-203. Readiness testing.

(a) The Department of Education shall develop guidelines for school districts to perform readiness testing for children who are entering kindergarten.

(b)(1) After the department develops guidelines under subsection (a) of this section, each school district in the state shall conduct individual readiness testing on each child entering kindergarten and provide the results of the testing to the child’s parents in a timely manner prior to the child’s first day of school.

(2) The results of the testing that are provided to parents shall indicate in clear, understandable terminology the child’s readiness for entering kindergarten.

History. Acts 2001, No. 1552, § 1.

SUBCHAPTER 3 — EARLY CHILDHOOD AND ADULT EDUCATION ACT

SECTION.

6-16-301. Title.

6-16-302. Administration of federal funds.

6-16-303. Acceptance of gifts, grants, donations, etc.

6-16-304. Limits on expenditure.

6-16-305. Funds for research and demonstration centers — Consultative services.

6-16-306. Vocational-technical high schools.

6-16-307. Rules and regulations for orderly school operation.

6-16-308. Maximum age of persons admitted to public schools — Exceptions.

SECTION.

6-16-309. Authorization for adult education expenditures.

6-16-310. Early childhood and kindergarten programs — Approval and funding generally.

6-16-311. Early childhood education — Approval of private programs.

6-16-312. Early childhood and kindergarten programs — Tuition, etc., prohibited.

6-16-313. Early childhood and kindergarten programs — Minimum standards.

Cross References. Vocational and technical education, § 6-50-101 et seq.

6-16-301. Title.

This subchapter shall be known as the “Early Childhood and Adult Education Act of 1969”.

History. Acts 1969, No. 63, § 1; A.S.A. 1947, § 80-1644.

6-16-302. Administration of federal funds.

(a) The State Board of Education or the State Board of Workforce Education and Career Opportunities is designated as the state agency or authority to receive and administer all available federal funds or those funds which may hereafter become available for early childhood education or adult education of less than college grade.

(b) This provision shall be applicable except in instances in which Congress specifically provides for some other state agency, institution, or state official to receive and administer specific federal grants in these areas.

(c) The state agency or authority shall disburse any and all federal funds in accordance with federal and state statutes and any implementing regulations pertaining thereto.

History. Acts 1969, No. 63, § 4; A.S.A. 1947, § 80-1647.

6-16-303. Acceptance of gifts, grants, donations, etc.

The State Board of Education or school district boards of directors may accept gifts, grants, donations, equipment and materials, and bequests of money and real and personal property for the purposes of this subchapter.

History. Acts 1969, No. 63, § 5; A.S.A. 1947, § 80-1648.

6-16-304. Limits on expenditure.

The expenditure of moneys by either the State Board of Education or school district boards of directors shall be limited to projects, programs, research, or demonstrations in early childhood education and in adult education which are under the control and management of public boards or commissions.

History. Acts 1969, No. 63, § 5; A.S.A. 1947, § 80-1648.

6-16-305. Funds for research and demonstration centers — Consultative services.

(a) Irrespective of any language in this subchapter, nothing shall be construed as prohibiting the General Assembly from providing funds for the purpose of establishing centers for research or demonstration purposes in order to provide state-level leadership in the area of early childhood education.

(b) In such instances, however, all such funds shall be appropriated for use of the board and shall be subject to cooperative agreements in writing between the Department of Education and the sponsoring teacher training institutions or school districts.

(c) Available funds may be used by the department for the purpose of securing consultative services.

(d)(1) In that eventuality, the department shall certify that the expenditures are reasonable and are within customary amounts paid for the services.

(2) An annual report of the expenditures shall be filed with the Department of Finance and Administration, the Legislative Council, and the Legislative Joint Auditing Committee.

(e) Moreover, full-time state employees shall not be reimbursed for consultative services but may be reimbursed for expenses incurred in participating in these programs in instances where their services have been authorized by the Commissioner of Education or the Director of the Department of Workforce Education.

History. Acts 1969, No. 63, § 8; A.S.A. 1947, § 80-1651.

6-16-306. Vocational-technical high schools.

(a) Nothing in this subchapter shall be construed as prohibiting a school district from operating a designated, approved area vocational-technical high school in keeping with federal or state legislation and State Board of Workforce Education and Career Opportunities regulations pertaining thereto.

(b) Enrollments in area vocational-technical high schools include domiciliary residents and residents from outside the school district.

(c) Enrollments in such institutions may include students under twenty-one (21) years of age and students over twenty-one (21) years of age.

(d) The provision found in § 6-16-308 prohibiting students who have attained the age of twenty-one (21) from attending the public schools from kindergarten through grade twelve (K-12) shall not be applicable with reference to the area vocational-technical high school.

History. Acts 1969, No. 63, § 12; A.S.A. 1947, § 80-1655.

6-16-307. Rules and regulations for orderly school operation.

(a) Nothing in this subchapter shall be construed to limit a school district's power to adopt reasonable rules, regulations, and policies not inconsistent with the purposes of this subchapter to ensure continued orderly operation of schools, including adult education and area vocational-technical high schools.

(b) Such powers include the right of expulsion for student participation in any activity which tends, in the opinion of the board, to disrupt, obstruct, or interfere with orderly education processes.

History. Acts 1969, No. 63, § 13; A.S.A. 1947, § 80-1656.

CASE NOTES**Expulsion of Students.**

It was not an abuse of discretion by school district board of directors, after a public hearing where no constitutional question was raised, to permanently expel high school students. *Fortman v. Texarkana School Dist.*, 257 Ark. 130, 514 S.W.2d 720 (1974).

School rule or regulation may properly provide that a student can be expelled for nonattendance. *Williams v. Board of Educ.*, 274 Ark. 530, 626 S.W.2d 361 (1982).

Cited: *Smith v. Little Rock Sch. Dist.*, 582 F. Supp. 159 (E.D. Ark. 1984).

6-16-308. Maximum age of persons admitted to public schools — Exceptions.

Domiciliary residents of a school district who have attained the age of twenty-one (21) years may enroll in the school district's adult education programs; but no person over the age of twenty-one (21) shall be permitted to enroll in the public schools of any school district from

kindergarten through grade twelve (K-12), except in school districts where no courses are offered for which adults can obtain high school credit and except as provided in § 6-16-306.

History. Acts 1969, No. 63, § 11; 1983 (Ex. Sess.), No. 60, § 5; A.S.A. 1947, § 80-1654.

RESEARCH REFERENCES

Ark. L. Rev. Gitelman and McIvor, Domicile, Residence and Going to School in Arkansas, 37 Ark. L. Rev. 843.

CASE NOTES

Cited: Allred v. Arkansas Dep't of Cor. Sch. Dist., 322 Ark. 772, 912 S.W.2d 4 (1995).

6-16-309. Authorization for adult education expenditures.

The State of Arkansas and school districts are authorized to spend available tax funds for adult education below college level.

History. Acts 1969, No. 63, § 2; A.S.A. 1947, § 80-1645.

6-16-310. Early childhood and kindergarten programs — Approval and funding generally.

(a) The expenditure of state or local tax funds, except as provided in § 6-16-305, shall be limited to program applications approved by the Department of Education for children five (5) years of age as defined elsewhere in this subchapter.

(b) Programs in early childhood education sponsored as a leadership function, including expenditures in keeping with § 6-16-305, shall be approved by the department.

(c) All kindergarten programs financed from tax sources must be approved by the department.

History. Acts 1969, No. 63, § 7; A.S.A. 1947, § 80-1650.

6-16-311. Early childhood education — Approval of private programs.

In the event a privately controlled and operated program for children of less than six (6) years of age is conducted in the state, the program shall be licensed as set forth in § 20-78-201 et seq.

History. Acts 1969, No. 63, § 10; A.S.A.

1947, § 80-1653; Acts 1997, No. 1132,
§ 33.

6-16-312. Early childhood and kindergarten programs — Tuition, etc., prohibited.

(a) The State Board of Education and school district boards of directors are prohibited from initiating new or additional programs, studies, research, or demonstrations with revenue derived from fees, tuition, or other contributions charged or received from students participating in public school kindergarten programs.

(b) The specific intention of this section is to prohibit the charging of fees or tuition in order to pay for the operation of public school kindergarten programs, and no other interpretation shall be given to it.

History. Acts 1969, No. 63, § 6; A.S.A. 1947, § 80-1649; Acts 1997, No. 1132, § 34.

6-16-313. Early childhood and kindergarten programs — Minimum standards.

(a) The State Board of Education shall promulgate and adopt such rules and regulations as it deems appropriate providing minimum standards, including program standards and teacher certification standards, for the conduct of public school kindergarten programs.

(b) Program standards shall include, but shall not necessarily be restricted to, facilities, staffing, articulation with the elementary program other than the kindergarten, and finance.

(c) Parental participation in program planning, development, and evaluation shall be encouraged.

History. Acts 1969, No. 63, § 9; A.S.A. 1947, § 80-1652; Acts 1997, No. 1132, § 35.

SUBCHAPTER 4 — COMPUTER TECHNOLOGY

SECTION.

6-16-401. Legislative intent.

6-16-402. Commission on Improving Public Schools' Basic Skills Opportunities Through Technology — State Board of Education designated as successor.

SECTION.

6-16-403 — 6-16-408. [Repealed.]

6-16-409. Advisory Committee on Educational Access to Technology.

Preambles. Acts 1983, No. 528 contained a preamble which read: "Whereas, computer technology has provided opportunities for one of the most efficient and

effective methods of providing educational services, by virtue of being able to provide computer-assisted instruction; and
"Whereas, through the assistance of

computer technology, it is possible to teach basic skills at a faster rate and at a higher level to the extent that, once the technology is in place, elementary students should be able to master the basic skills of reading, math, and language arts by the time they enter the secondary level, and students should be able to obtain computer literacy through the junior high school years, and computer proficiency during the high school years; and

"Whereas, computer-based education offers means of expanding the ability to provide adequate educational opportunities for the gifted and talented students; and

"Whereas, many private individuals and firms have indicated a desire and willingness to assist the State in obtaining and applying computer technology in the instructional process in our public schools; and

"Whereas, private individuals and firms would be encouraged to offer such assistance, if the State exerts a strong commitment to obtain and use computer technology to the fullest extent possible in providing quality education in Arkansas; "Now therefore...."

Effective Dates. Acts 1983, No. 528, § 10: Mar. 17, 1983. Emergency clause provided: "It is hereby found and determined by the General Assembly that the use of computer technology in the instructional process in teaching and improving learning opportunities in the basic skills in the public schools offers means of providing expanded educational opportunities and enhancement of literacy programs; and, that the immediate passage of this Act is necessary in order to enable the State Department of Education, in cooperation with the Commission on Improving Public Schools Basic Skills Opportunities Through Technology, to do advance planning for the implementation of computer-based educational projects by the commencement of the 1983-84 school year. Therefore, an emergency is hereby declared to exist and this Act, being immediately necessary for the preservation of the public peace, health and safety, shall be in full force and effect as follows: Section 7 of this Act shall be effective July 1, 1983, and all other provisions of this Act shall be effective immediately upon the passage and approval of this Act."

Acts 1997, No. 250, § 258: Feb. 24, 1997. Emergency clause provided: "It is hereby found and determined by the General Assembly that Act 1211 of 1995 established the procedure for all state boards and commissions to follow regarding reimbursement of expenses and stipends for board members; that this act amends various sections of the Arkansas Code which are in conflict with the Act 1211 of 1995; and that until this cleanup act becomes effective conflicting laws will exist. Therefore an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 2003, No. 1081, § 2: Apr. 3, 2003. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the Arkansas Supreme Court has ruled that the current system of education in Arkansas is inadequate and inequitable, and has instructed the General Assembly to define what is necessary to provide an adequate and equitable education for the children of Arkansas, and has assigned to the General Assembly the responsibility to assess, evaluate, and monitor public education across the state to ensure that an equal educational opportunity for an adequate education is being substantially afforded to Arkansas' school children. A committee must be formed to determine if substantially equal access to technology is being afforded Arkansas' school children and a delay in the formation will prevent the committee from having adequate measures in place for the relief from the court's stay on January 1, 2004. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or

(3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

6-16-401. Legislative intent.

(a) The General Assembly expresses its intent and commitment to use every means available to obtain and utilize to the fullest extent computer technology in the instructional process in the public schools of this state.

(b) Recognizing the value and cost of quality education, private individuals, firms, and corporations are encouraged to provide assistance in this endeavor to the maximum extent possible, including grants, donations, and in-kind services.

History. Acts 1983, No. 528, § 1; A.S.A. 1947, § 80-1672.

6-16-402. Commission on Improving Public Schools' Basic Skills Opportunities Through Technology — State Board of Education designated as successor.

(a) As a means of obtaining advice and providing assistance to the public schools of this state in the development of computer technology in the instructional process, the State Board of Education is designated as the successor to the Commission on Improving Public Schools' Basic Skills Opportunities Through Technology.

(b) The timing of the process required to complete the transition of the functions of the commission to the state board shall be at the discretion of the state board.

(c) In conjunction with the transition of the commission to the state board, the Department of Education shall become the successor to the Instructional Microcomputer Project for Arkansas Classrooms.

History. Acts 1983, No. 528, § 2; A.S.A. 1947, § 80-1672.1; Acts 1999, No. 148, § 1.

6-16-403 — 6-16-408. [Repealed.]

Publisher's Notes. Former §§ 6-16-403 — 6-16-408, concerning commission members, meetings, powers and duties, Department of Education powers and duties, and applications for computer-based educational projects and the monitoring of projects, were repealed by Acts 1999, No. 148, § 2. The sections were derived from the following sources:

6-16-403. Acts 1983, No. 528, § 2;

A.S.A. 1947, § 80-1672.1; Acts 1997, No. 250, § 16.

6-16-404. Acts 1983, No. 528, § 2; A.S.A. 1947, § 80-1672.1.

6-16-405. Acts 1983, No. 528, § 3; A.S.A. 1947, § 80-1672.2.

6-16-406. Acts 1983, No. 528, § 4; A.S.A. 1947, § 80-1672.3.

6-16-407. Acts 1983, No. 528, § 5; A.S.A. 1947, § 80-1672.4.

6-16-408. Acts 1983, No. 528, § 6;
A.S.A. 1947, § 80-1672.5.

6-16-409. Advisory Committee on Educational Access to Technology.

(a) There is created a committee to be known as the "Advisory Committee on Educational Access to Technology".

(b)(1) The Advisory Committee on Educational Access to Technology shall consist of five (5) members as follows:

(A) Two (2) members appointed by a majority vote of the Senate Technology and Legislative Affairs Committee;

(B) Two (2) members appointed by a majority vote of the House Committee on Advanced Communication and Information Technology; and

(C) One (1) member appointed by a majority vote of the Joint Committee on Advanced Communication and Information Technology.

(2) The appointees shall be members of Arkansas's business community engaged in business involving the delivery of technology.

(c) The Senate Technology and Legislative Affairs Committee and the House Committee on Advanced Communication and Information Technology shall each name one (1) of the committees' appointees to serve as cochairs of the Advisory Committee on Educational Access to Technology.

(d) If a vacancy occurs in an appointed position for any reason, the vacancy shall be filled in the same manner as the original appointment.

(e)(1) The Advisory Committee on Educational Access to Technology shall meet upon call of either or both of the cochairs of the Advisory Committee on Educational Access to Technology.

(2) Three (3) members of the Advisory Committee on Educational Access to Technology shall constitute a quorum for the purpose of transacting business.

(3) A quorum is required for any action of the Advisory Committee on Educational Access to Technology.

(f)(1) The Advisory Committee on Educational Access to Technology shall review the technology needs of the Arkansas public schools serving the needs of students in grades kindergarten through twelve (K-12) and recommend a method to ensure that all school districts and students have substantially equal access to technology.

(2) The Advisory Committee on Educational Access to Technology shall work with members of the education community, the business community, and the Department of Education to determine methods for effectively teaching students to use technology and the most effective manner in which to incorporate technology into instruction for students.

(g) The Advisory Committee on Educational Access to Technology shall report its findings and recommendations to the chairs of the Joint Committee on Advanced Communication and Information Technology,

the House Committee on Education, and the Senate Committee on Education no later than September 1, 2003, and every six (6) months thereafter.

(h) The Bureau of Legislative Research employees providing staff assistance to the Joint Committee on Advanced Communication and Information Technology shall also furnish reasonable staff assistance to the Advisory Committee on Educational Access to Technology.

(i)(1) The members of the Advisory Committee on Educational Access to Technology shall serve without pay.

(2) The members of the Advisory Committee on Educational Access to Technology may receive expense reimbursement in accordance with § 25-16-902, to be paid by the bureau.

History. Acts 2003, No. 1081, § 1.

SUBCHAPTER 5 — DRIVER EDUCATION AND TRAINING

SECTION.

6-16-501. Organ donor awareness education.

6-16-502 — 6-16-506. [Repealed.]

6-16-507. Removal of vehicle involved in accident.

SECTION.

6-16-508. Accessible parking for persons with disabilities.

Effective Dates. Acts 1987, No. 598, § 4: Emergency failed to pass. Emergency clause provided: "It is hereby found and determined by the General Assembly of the State of Arkansas that the practice of leaving a vehicle on a roadway after an accident can create a serious obstruction of traffic and can endanger the safety of

persons traveling on our streets, roads and highways. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect upon passage and approval." Approved Apr. 4, 1987.

6-16-501. Organ donor awareness education.

(a) After receiving approval of materials from the Commissioner of Education and the Director of the Department of Health, the Arkansas Regional Organ Recovery Agency may provide educational and instructional materials regarding organ and tissue donation to school districts for use in the classroom.

(b)(1) Driver education courses and high school health classes shall include information or instructional materials regarding organ and tissue donation.

(2) Inclusion of organ donor educational information or instructional materials is mandated beginning with the 2004-2005 school fiscal year.

History. Acts 2003, No. 546, § 1.

Publisher's Notes. Former § 6-16-

501, concerning driver education and training programs, was repealed by Acts

1993, No. 475, § 12. The former section was derived from Acts 1967, No. 335, § 1; A.S.A. 1947, § 80-1637.

Cross References. Leave for bone

marrow or organ donation, § 21-4-215.

Organ and tissue donation education in driver's instruction manual, § 27-18-109.

6-16-502 — 6-16-506. [Repealed.]

Publisher's Notes. These sections, concerning driver education and training, were repealed by Acts 1993, No. 475, § 12. They were derived from the following sources:

6-16-502. Acts 1967, No. 335, §§ 2, 4; A.S.A. 1947, §§ 80-1638, 80-1640.

6-16-503. Acts 1967, No. 335, § 6; A.S.A. 1947, § 80-1642.

6-16-504. Acts 1967, No. 335, § 3, A.S.A. 1947, § 80-1639.

6-16-505. Acts 1967, No. 335, § 5; A.S.A. 1947, § 80-1641.

6-16-506. Acts 1967, No. 335, § 7; A.S.A. 1947, § 80-1643.

6-16-507. Removal of vehicle involved in accident.

The Department of Education and the Department of Arkansas State Police shall include instruction within the Department of Education Driver Education and Training Program and the Driver's Manual of the Department of Arkansas State Police concerning the times when a driver involved in an accident must remove his or her vehicle from the roadway. The Department of Arkansas State Police shall include the subject on the examination for a driver's license.

History. Acts 1987, No. 598, § 2.

Publisher's Notes. Acts 1987, No. 598, § 2, is also codified as § 27-18-107.

6-16-508. Accessible parking for persons with disabilities.

(a) After receiving approval of materials from the Commissioner of Education and the Director of the Department of Health, the Arkansas Governor's Commission on People with Disabilities may provide educational and instructional materials regarding accessible parking for persons with disabilities to school districts for use in the classroom.

(b) Driver education courses and high school health classes shall include information or instructional materials regarding accessibility issues for persons with disabilities.

(c) Inclusion of educational information or instructional materials under this section is mandated beginning with the 2008-2009 school fiscal year.

History. Acts 2007, No. 753, § 7.

SUBCHAPTER 6 — POSTSECONDARY PREPARATORY PROGRAM

SECTION.

6-16-601. Authority.

6-16-602. Programs generally.

SECTION.

6-16-603. Local programs mandated — Placement test.

SECTION.

6-16-604. Optional summer program —
Testing.

SECTION.

6-16-605. Acceptance of test scores.

Effective Dates. Acts 1989, No. 11, § 8: Feb. 1, 1989. Emergency clause provided: "It is hereby found and determined by the General Assembly that the development of an intensive post-secondary preparatory program for students in public schools of this state would reduce costs for remediation occurring during the freshman year of enrollment in state colleges, universities or post-secondary vocational schools, and that the development of this program in the Arkansas Department of Education which would conserve state revenue is in the best interests of all citizens of this state. Therefore, an emergency is hereby declared to exist and this Act, being immediately necessary for the preservation of the public peace, health, and welfare, shall be in full force and effect from and after its passage and approval."

Acts 1989, No. 659, § 4: Mar. 15, 1989. Emergency clause provided: "It is hereby found and determined by the General Assembly that the development of an intensive post-secondary preparatory program for students in public schools of this state would reduce costs for remediation occurring during the freshman year of enroll-

ment in state colleges, universities or post-secondary vocational schools, and that the development of this program in the Arkansas Department of Education which would conserve state revenue is in the best interest of all citizens of this state. Therefore, an emergency is hereby declared to exist and this Act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1991, No. 650, § 7: Mar. 19, 1991. Emergency clause provided: "It is hereby found and determined by the General Assembly that the remedial program for high school students is now limited to graduates; that in order to realize the full potential of the program, it is necessary that it be expanded to include students who have completed the junior year of high school; that this act is designed to accomplish this purpose and should be given effect immediately. Therefore, an emergency is hereby declared to exist and this act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

6-16-601. Authority.

The State Board of Education is authorized and directed to develop and implement an intensive postsecondary preparatory instruction program for public school students in designated grades who choose to participate in these programs.

History. Acts 1989, No. 11, § 1.

6-16-602. Programs generally.

(a) The programs established under authority of this subchapter shall:

(1) Provide advice which will better prepare students for entry-level postsecondary work in the areas of mathematics, English, and reading; and

(2) Improve diagnostic efforts, counseling, placement, and instruction for secondary school students based on identified needs for college enrollment and placement.

(b) Guidelines for the testing and postsecondary preparatory programs shall be prepared and promulgated by the Department of Education.

History. Acts 1989, No. 11, §§ 2, 4.

6-16-603. Local programs mandated — Placement test.

(a) The following programs shall be in effect in the public schools of Arkansas:

(1) Every public school in Arkansas shall develop a local plan for diagnosis of its students' academic deficiencies;

(2) Based on the diagnosis of deficiencies, counseling shall be provided to encourage students to enroll in secondary school courses that would result in the improvement of academic skills in mathematics, English, and reading; and

(3) Local plans shall provide for parental involvement in student counseling and placement for students.

(b) Every eleventh-grade student enrolled in a public school of Arkansas who chooses to do so may take a placement test which has been approved by the State Board of Education during a time frame set by the state board. Students who score less than the statewide minimum scores established by the Arkansas Higher Education Coordinating Board for mathematics, English, and reading shall receive counseling and strong encouragement to enroll during their senior year in regular school instructional courses designated by local school officials to assist in the improvement of scores in the areas of deficiency.

(c) During a time frame to be established by the state board, every eleventh-grade student enrolled in a public school of Arkansas who chooses to do so may take a placement test which has been designated by the Arkansas Higher Education Coordinating Board.

History. Acts 1989, No. 11, § 3; 1989, No. 659, § 1, provided: "Beginning with No. 659, § 1; 1991, No. 650, § 1. the 1989-90 school year".

A.C.R.C. Notes. As enacted, Acts 1989,

6-16-604. Optional summer program — Testing.

(a)(1) Students who plan to enroll in postsecondary programs in Arkansas may enroll in a state-approved intensive noncredit preparatory program during the summer following the junior year of high school.

(2) The Department of Education is also authorized to permit the enrollment in these programs of Arkansas high school graduates.

(b)(1) The length of the summer school term is to be five (5) weeks.

(2) The number and location of sites for these programs are to be determined by the Department of Education.

(c) Course content guides for summer school preparatory courses shall be developed by the Department of Education with assistance from the Department of Higher Education.

(d)(1) The Department of Education may operate the noncredit preparatory programs or may contract with local school districts or institutions of higher education to operate these programs.

(2) The opportunity to participate in a noncredit preparatory program afforded to students by this subchapter shall not be interpreted as mandating the Department of Education to operate or fund noncredit preparatory programs at a cost in excess of the funds appropriated and funded in the Public School Fund for this purpose.

(e) The State Board of Education shall adopt rules and regulations for the implementation of this program, including minimum and maximum class sizes for the programs.

(f) Students who choose to do so may take a placement test which has been approved by the state board and the Arkansas Higher Education Coordinating Board upon completion of their summer school studies.

(g) Students who complete the summer College Preparatory Enrichment Program successfully and who enroll in an appropriate mathematics or English course, as determined by the Department of Education and the Department of Higher Education during the senior year of high school may take the placement test designated by the Arkansas Higher Education Coordinating Board under § 6-16-603(b) at no cost to the student.

History. Acts 1989, No. 11, §§ 3, 4; 1989, No. 659, § 1; 1991, No. 650, §§ 2, 3; 2007, No. 1573, § 56.

A.C.R.C. Notes. Acts 1989, No. 659, § 1, also provided: "The State Depart-

ment of Education shall designate the location at which such programs shall be offered."

Amendments. The 2007 amendment deleted former (h).

6-16-605. Acceptance of test scores.

At the request of those students, scores on placement tests approved by the Arkansas Higher Education Coordinating Board and taken by students enrolled in a public school of Arkansas under authority of this subchapter will be made available to and will be accepted by and recognized toward meeting enrollment requirements of state-supported colleges, universities, and postsecondary vocational schools in Arkansas.

History. Acts 1989, No. 11, § 5.

SUBCHAPTER 7 — OPTIONAL SUMMER SCHOOL PROGRAMS

SECTION.

6-16-701. Legislative intent.

6-16-702. Authority — Fees.

6-16-703. [Repealed.]

6-16-704. School-year remediation program.

SECTION.

6-16-705. Summer school remediation program.

6-16-706. Summer school for nonresidents.

Effective Dates. Identical Acts 1995, Nos. 348 and 351, § 5: Feb. 17, 1995. Emergency clause provided: "It is hereby found and determined by the Eightieth General Assembly of the State of Arkansas that effective operation of Arkansas public schools is dependent upon the immediate expansion of the summer school remediation program during the summer of 1995 to include students who did not perform at grade level in grades kindergarten through grade four (4) and that failure to implement this act immediately will cause undue hardships to local school districts. Therefore, an emergency is declared to exist and this act being necessary for the immediate preservation of the public peace, health, and safety, shall be in full force and effect from and after its passage and approval."

Acts 1997, No. 1081, § 5: Apr. 3, 1997. Emergency clause provided: "It is found and determined by the Eighty First General Assembly of the State of Arkansas that the effective operation of Arkansas public schools is dependent upon immediate clarification of the grades in which students not performing at grade level during the regular school year will be required to attend summer school for promotion to the next grade and whether State or local monies will be used to fund summer school and that failure to implement this act immediately will result in confusion and cause undue hardships to local school districts. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 1999, No. 855, § 6: Mar. 24, 1999. Emergency clause provided: "It is found and determined by the Eighty Second General Assembly of the State of Arkansas that the effective operation of Arkansas public schools is dependent upon immediate clarification of whether school districts will be required to hold summer school in the summer of 1999 and that failure to implement this act immediately will result in confusion and cause undue hardships to local school districts. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 1999, No. 1162, § 5: Apr. 6, 1999. Emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly that school districts need to have summer school plans in place for many students before the end of the 1998-1999 school year and to insure that a summer school option is available for every student in the state needing summer school the immediate implementation of this Act is necessary. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

6-16-701. Legislative intent.

It is the intent of the General Assembly that the State of Arkansas provide free public schools for the citizens of this state as provided by law and by the Arkansas Constitution. However, it is sometimes

desirable for a school district to offer optional courses outside the regular school term for students who desire to enroll. These courses, which are also offered in the regular school term, are provided as a convenience to students who need to make up work or want to earn extra credits. School districts should be authorized to charge a fee for such optional courses in order to encourage additional offerings outside the regular school term.

History. Acts 1989, No. 475, § 1; 1993, No. 840, § 1.

6-16-702. Authority — Fees.

(a)(1) Public schools are hereby authorized to operate optional school programs during the summer or at other times when the regular school classes are not in session and to charge fees to students for participating in the programs.

(2) If credit is given for the courses taken in the optional programs:

(A) The teachers shall meet certification requirements for the courses taught; and

(B) The number of hours that classes are in session shall meet the same requirements as are in effect for the same courses taught in the regular term.

(b)(1) In school districts that operate optional school programs during the summer and in districts where space is available, no fee shall be charged a student who qualifies for free or reduced-price meals and whose enrollment in an academic course is made for the purpose of remediating a deficiency in grades when the student has made a D or an F in an academic course.

(2) Other courses offered in summer school for academic credit may be taken without fees being charged, as space is available, by students who qualify for free or reduced-price meals.

History. Acts 1989, No. 475, § 2; 1993, No. 840, § 2; 1999, No. 100, § 9.

6-16-703. [Repealed.]

Publisher's Notes. This section, concerning legislative findings, mandatory summer school, rules and regulations, and funding programs, was repealed by Acts

1999, No. 855, § 1. The section was derived from Acts 1993, No. 1139, §§ 1, 2; 1995, No. 348, § 1; 1995, No. 351, § 1; 1997, No. 1081, § 1.

6-16-704. School-year remediation program.

Those schools electing to not offer a summer school program shall offer a Department of Education-approved remediation program during the regular school year to students in kindergarten through grade three (K-3) not performing at grade level.

History. Acts 1999, No. 855, § 2.

6-16-705. Summer school remediation program.

Students in kindergarten through grade three (K-3) not performing at grade level during the regular school year shall participate in a Department of Education-approved remediation program or a summer school remediation program to be eligible for promotion to the next grade.

History. Acts 1999, No. 855, § 2.

6-16-706. Summer school for nonresidents.

(a) A school district may upon agreement with another school district transfer students to the nonresident school district for summer school classes.

(b) The cost of the summer school classes shall be the responsibility of the sending school district at a rate agreed upon by both school districts.

(c) Transportation shall be the responsibility of the student or the student's parents.

History. Acts 1999, No. 1162, § 1.

SUBCHAPTER 8 — ARKANSAS ADVANCED PLACEMENT INCENTIVE PROGRAM

SECTION.

- 6-16-801. Title.
- 6-16-802. Purpose.
- 6-16-803. Definitions.
- 6-16-804. Established — Subsidies — Rules and regulations.

SECTION.

- 6-16-805. Funding.
- 6-16-806. Treatment as advanced placement course.

A.C.R.C. Notes. References to “this subchapter” in §§ 6-16-801 — 6-16-805 may not apply to § 6-16-806, which was enacted subsequently.

Effective Dates. Acts 1995, No. 881, § 6: July 1, 1995.

Acts 1995, No. 881, § 10: July 1, 1995. Emergency clause provided: “It is hereby found and determined by the Eightieth General Assembly that the effectiveness of this Act on July 1, 1995, is essential to the successful establishment of an advanced placement incentive program in Arkansas high schools during the 1995-96 school year; and that this program is necessary to make advanced educational courses accessible to high school students in every area of the state. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health, and

safety shall be in full force and effect from and after July 1, 1995.”

Acts 2005, No. 2131, § 38: July 1, 2005. Emergency clause provided: “It is found and determined by the General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 2005 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 2005 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health

and safety shall be in full force and effect from and after July 1, 2005.”

6-16-801. Title.

This subchapter shall be known as and may be cited as the “Arkansas Advanced Placement and International Baccalaureate Diploma Incentive Program Act of 1995”.

History. Acts 1995, No. 881, § 1; 2005, No. 2152, § 3. inserted “and International Baccalaureate Diploma.”

Amendments. The 2005 amendment

6-16-802. Purpose.

(a) The purpose of this subchapter is to serve as a legislative charter for the establishment, organization, and administration of a program designed to improve the course offerings available to middle school, junior high school, and high school students throughout the state.

(b) The program established under this subchapter will provide advanced educational courses that are easily accessible and that will prepare students for admission to and success in a postsecondary educational environment.

(c) A key component in the program is adequately preparing teachers and schools in providing advanced placement courses or courses offered under the International Baccalaureate Diploma Program to their students.

History. Acts 1995, No. 881, § 2; 1997, No. 929, § 1; 2005, No. 2152, § 3. inserted “or courses offered under the International Baccalaureate Diploma Program” in (c).

Amendments. The 2005 amendment

6-16-803. Definitions.

As used in this subchapter:

(1)(A) “Advanced placement course” means a high school level preparatory course for a college advanced placement test that incorporates all topics specified by the College Board and Educational Testing Service on its standard syllabus for a given subject area and is approved by the College Board and Educational Testing Service.

(B) “Preadvanced placement course” means a middle school, junior high school, or high school level course that specifically prepares students to enroll and participate in an advanced placement course;

(2) “State board” means the State Board of Education;

(3) “College advanced placement test” means the advanced placement test administered by the College Board and Educational Testing Service;

(4) “College Board” means the College Board and Educational Testing Service;

- (5) "Commissioner" means the Commissioner of Education;
- (6) "Department" means the Department of Education;
- (7) "International Baccalaureate Diploma Program" means an international education program offered by the International Baccalaureate Organization; and
- (8) "Program" means the Arkansas Advanced Placement and International Baccalaureate Diploma Incentive Program.

History. Acts 1995, No. 881, § 3; 1997, No. 929, § 2; 2005, No. 2152, § 3.

Amendments. The 2005 amendment inserted present (7) and made related changes; redesignated former (7) as present (8); and inserted "and International Baccalaureate Diploma" in present (8).

6-16-804. Established — Subsidies — Rules and regulations.

- (a) The Arkansas Advanced Placement and International Baccalaureate Diploma Incentive Program is hereby established, to be administered by the Commissioner of Education.
- (b) Contingent upon legislative appropriations and based on criteria established by the Department of Education, schools participating in the program may be awarded a one-time equipment and instructional materials grant for providing an advanced placement course or a course offered under the International Baccalaureate Diploma Program.
- (c) Subject to legislative appropriations, a teacher participating in the advanced placement program, in the International Baccalaureate Diploma Program, or in the preadvanced placement program may be awarded subsidized teacher training for advanced placement courses at a cost not to exceed six hundred fifty dollars (\$650) per teacher.
- (d)(1) Contingent upon legislative appropriation and the availability of funding, the state may pay in full, or on a pro rata basis as determined under subdivision (d)(2) of this section, the cost of the advanced placement test fee or the equivalent test fee under the International Baccalaureate Diploma Program, or both.
- (2) The State Board of Education may create a sliding scale based on family income.
- (e) The state board is authorized to promulgate rules and regulations necessary to implement this subchapter.

History. Acts 1995, No. 881, § 4; 1997, No. 929, § 3; 2001, No. 146, § 1; 2005, No. 2131, § 27; 2005, No. 2152, § 3.

A.C.R.C. Notes. Pursuant to § 1-2-207, this section is set out above as amended by Acts 2005, No. 2152, § 3. The section was also amended by Acts 2005, No. 2131, § 27, effective July 1, 2005, to read as follows: "(a) The Arkansas Advanced Placement Incentive Program is hereby established, to be administered by the Commissioner of Education.

"(b)(1) Contingent upon legislative appropriations and based on criteria estab-

lished by the Department of Education, schools participating in the program may be awarded a one-time equipment and instructional materials grant for providing an advanced placement course;

"(2) Contingent upon legislative appropriations, schools may be awarded an amount to be determined by the department for each score of three (3) or better earned by a student on any advanced placement test. These funds shall be utilized in the schools' advanced placement programs.

"(c) Subject to legislative appropria-

tions, a teacher participating in the program or in the preadvanced placement program may be awarded subsidized teacher training for advanced placement courses.

"(d)(1) The state may pay a share of the advanced placement test fee.

"(2) The State Board of Education may create a sliding scale based on family income.

"(3) All students taking advanced placement courses must take advanced placement tests or return the economic supplement.

"(e) The board is authorized to promulgate rules and regulations necessary to implement this subchapter, and the com-

missioner may determine the amount of any awards or supplements made under this subchapter based on the amount of the appropriation and available funding for the program."

Amendments. The 2005 amendment by No. 2152 inserted "and International Baccalaureate Diploma" in (a); deleted former (b)(2) and the (b)(1) subdivision designation; inserted "or a course offered under the International Baccalaureate Diploma Program" in present (b); substituted "advanced placement program, in the International Baccalaureate Diploma Program" for "program" in (c); rewrote (d)(1); and deleted former (d)(3) and (d)(4).

6-16-805. Funding.

(a) The awards granted under the provisions of this subchapter for both advanced placement and the International Baccalaureate Diploma Program may be funded by donations, grants, or legislative appropriation.

(b) All donations, grants, and appropriations received shall be accounted for by the Department of Education.

(c) The Commissioner of Education may solicit and receive donations and grants for the purpose of making awards.

History. Acts 1995, No. 881, § 5; 2005, No. 2152, § 3.

Amendments. The 2005 amendment

inserted "for both advanced placement and the International Baccalaureate Diploma Program" in (a).

6-16-806. Treatment as advanced placement course.

Any high school course offered under the International Baccalaureate Diploma Program shall be treated the same as an advanced placement course, including for the following purposes:

- (1) Weighted credit;
- (2) The Arkansas Advanced Placement and International Baccalaureate Diploma Incentive Program Act of 1995; and
- (3) Reporting requirements.

History. Acts 2005, No. 2152, § 4.

A.C.R.C. Notes. References to "this subchapter" in §§ 6-16-801 — 6-16-805

may not apply to this section, which was enacted subsequently.

SUBCHAPTER 9 — EVALUATION OF INSTRUCTIONAL PROGRAMS

SECTION.

6-16-901. Legislative findings — Procedures.

6-16-901. Legislative findings — Procedures.

(a) The General Assembly finds and acknowledges that a system of evaluation is needed to justify expenditure of state resources on effective instructional programs and to eliminate state funding of ineffective instructional programs. The General Assembly further finds that an evaluation system to examine instructional programs administered by the Department of Education must be implemented by the Commissioner of Education in order to make a recommendation regarding continuation or termination of any mandated instructional program administered by the department.

(b)(1) Beginning in 1997-1998 and each year thereafter, the program performance audit of these instructional programs enacted by the General Assembly shall determine whether the continuation of these instructional programs is justified.

(2) Each instructional program administered by the department shall be formally reviewed by a program performance audit every four (4) years to evaluate purposes, activities, duties, accomplishments, and resources required to implement the program.

(3) Upon completion of the program performance audits, the commissioner shall make a recommendation to the General Assembly regarding the continuation or termination of any program enacted by legislative action.

(4) The program performance audit shall include:

(A) The extent to which the instructional program has served the original purpose of the legislation;

(B) The extent to which the instructional program has complied with all laws, rules, and regulations defining its powers and duties;

(C) The extent to which operations of the instructional program have been impeded or enhanced by available resources;

(D) Any formal critique filed regarding the instructional program;

(E) Recognition by professional organizations regarding the effectiveness of the instructional program;

(F) A statistical analysis of the instructional program regarding the populations served, the costs of the program, staff requirements, and improved student achievement; and

(G) Justification for the continued existence or termination of the instructional program.

(5) A written evaluation report on each mandated instructional program, which includes the formal recommendation, will be provided to the General Assembly.

History. Acts 1997, No. 1160, §§ 1, 2.

A.C.R.C. Notes. Former § 6-16-902 is now codified as § 6-16-901(b).

SUBCHAPTER 10 — HEALTH EDUCATION

SECTION.

6-16-1001. Creation.

6-16-1002. Implementation.

SECTION.

6-16-1003. Oral health standards.

6-16-1001. Creation.

The Department of Health shall use moneys from The Tobacco Settlement Proceeds Act, § 19-12-101 et seq., to establish a Kids-For-Health program.

History. Acts 2001, No. 1749, § 1.

Cross References. Tobacco Settlement Proceeds Act, § 19-12-101 et seq.

6-16-1002. Implementation.

(a) Within six (6) months of August 13, 2001, the Department of Health, in consultation with the Department of Education, shall:

(1) Develop a comprehensive set of criteria for establishing a Kids-For-Health program;

(2) Develop a grant program under which school districts may apply for grants to design and implement local Kids-For-Health programs;

(3) Inform all public schools in Arkansas of the availability of funds for Kids-For-Health programs; and

(4) Develop a plan for monitoring and auditing Kids-For-Health programs.

(b)(1) For purposes of this subchapter, "Kids-For-Health program" means an educational program substantially similar to the Kids-For-Health program already operating in Washington County under the sponsorship of the Washington Regional Medical Center.

(2) Each school district may design a Kids-For-Health program appropriate to that school district, but each Kids-For-Health program shall include the study of general health issues, the study of tobacco and drug abuse prevention and cessation, direct student involvement in health-related activities, attention to self-esteem, body systems and functions, nutrition and fitness, hygiene and safety, community health, and pretesting and posttesting to determine the effectiveness of the local program.

History. Acts 2001, No. 1749, § 2.

6-16-1003. Oral health standards.

(a) The Department of Education shall adopt oral health standards as part of the Arkansas physical education and health curriculum framework.

(b) The Department of Education shall work with public schools to establish an educational program to inform, train, and educate students concerning the importance of achieving and maintaining good oral health.

(c) Curricula shall be designed according to objectives established by the Department of Education.

(d) The objectives shall be grade specific and shall be incorporated into the appropriate existing health and science curricula.

(e) It is the intent of this section that the curricula shall be implemented gradually, on a basis to be determined by the Department of Education, beginning no later than the fall semester 2005 with early elementary curricula and reaching full implementation at the high school level no later than the fall semester of 2011.

(f) The Department of Education shall enlist the voluntary assistance of appropriate dental health professionals, organizations, and departments as necessary to achieve the purposes of this section.

History. Acts 2003, No. 1216, § 1.

SUBCHAPTER 11 — CONSERVATION EDUCATION

SECTION.

6-16-1101. Fish and wildlife conservation education.

6-16-1101. Fish and wildlife conservation education.

(a) The Department of Education, in consultation with the Arkansas State Game and Fish Commission, shall establish school education programs for fish and wildlife conservation and other purposes consistent with Arkansas Constitution, Amendment 35.

(b) The conservation education programs may include, but not be limited to, the study of general fish and wildlife conservation issues, hunter education training, fishing education training, boating education training, wildlife habitat development, Project WILD, and the Hooked on Fishing — Not on Drugs Program.

(c)(1) The department shall distribute quarterly all grant moneys provided by the commission under § 15-41-209(d) to the counties where the offenses occurred.

(2) The counties shall distribute quarterly in the manner prescribed by ordinance of the county quorum courts all of the funds provided by the commission under § 15-41-209(d) for fish and wildlife conservation education and other purposes consistent with Arkansas Constitution, Amendment 35, to the school districts or conservation districts, or both, for the sole purpose of approved conservation education programs within the counties.

History. Acts 2003, No. 799, § 2; 2005, No. 893, § 1.

Amendments. The 2005 amendment rewrote (c)(2).

SUBCHAPTER 12 — ADVANCED PLACEMENT AND ENDORSED CONCURRENT ENROLLMENT

SECTION.

6-16-1201. Purpose.

6-16-1202. Definitions.

6-16-1203. Teacher skills and training.

SECTION.

6-16-1204. Implementation.

6-16-1205. [Repealed.]

6-16-1206. Exemption.

Effective Dates. Acts 2007, No. 936, § 6: Apr. 3, 2007. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that many high school students benefit from participating in endorsed concurrent enrollment courses; that this act is necessary to ensure that students continue to have the opportunity to enroll in endorsed concurrent enrollment classes; and that this act is immediately necessary to allow school districts time to plan schedules and hire staff prior to the 2007-

2008 school year. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

6-16-1201. Purpose.

To ensure that each student has an adequate education, the General Assembly finds that each student should have access to a rigorous and substantially equal curriculum.

History. Acts 2003 (2nd Ex. Sess.), No. 102, § 1.

6-16-1202. Definitions.

As used in this subchapter:

(1) "Advanced Placement course" means a high school level preparatory course for a college Advanced Placement test that:

(A) Incorporates all topics specified by the College Board and Educational Testing Service on its standards syllabus for a given subject area; and

(B) Is approved by the College Board and Educational Testing Service;

(2) "Endorsed concurrent enrollment course" means a college level course offered by an institution of higher education in this state that upon completion would qualify for academic credit in both the institution of higher education and a public high school that:

(A) Is in one (1) of the four (4) core areas of math, English, science, and social studies;

(B) Meets the requirements of § 6-16-1204(b); and

- (C) Is listed in the Arkansas Course Transfer System of the Department of Higher Education;
- (3) “Pre-Advanced Placement course” means a middle school, junior high school, or high school level course that specifically prepares students to enroll and to participate in an advanced course; and
- (4) “Vertical team” means a group of educators from different grade levels in a given discipline who work cooperatively to develop and implement a vertically aligned program aimed at helping students from diverse backgrounds acquire the academic skills necessary for success in the Advanced Placement program and other challenging coursework.

History. Acts 2003 (2nd Ex. Sess.), No. 102, § 1; 2007, No. 936, § 1.
Amendments. The 2007 amendment, in (2), substituted “Endorsed concurrent” for “Concurrent,” deleted “or courses” following “course,” substituted “in this state that upon” for “which upon,” added (2)(A) through (2)(C), and made related changes.

6-16-1203. Teacher skills and training.

- (a)(1) A teacher of an Advanced Placement course must obtain appropriate training.
- (2) The State Board of Education shall establish clear, specific, and challenging training guidelines that require teachers of College Board advanced placement courses and teachers of pre-Advanced Placement courses to obtain College Board sponsored or endorsed training.
- (3) The training may include vertical team training.
- (b) An instructor of an endorsed concurrent enrollment course shall have:
 - (1)(A) No less than a master’s degree that includes at least eighteen (18) hours of completed course work in the subject area of the endorsed concurrent enrollment course.
 - (B) The instructor’s credentials shall be approved by the academic unit or chief academic officer of the institution of higher education offering the endorsed concurrent enrollment course; and
- (2) The relevant credentials and experience necessary to teach from the syllabus approved by the institution of higher education granting the course credit.

History. Acts 2003 (2nd Ex. Sess.), No. 102, § 1; 2007, No. 936, § 2.
Amendments. The 2007 amendment inserted “skills and” in the section heading; redesignated former (a), (b)(1) and (b)(2) as present (a)(1), (a)(2) and (a)(3); and added (b).

6-16-1204. Implementation.

- (a)(1) In order to prepare students for the rigor inherent in Advanced Placement courses, school districts shall offer pre-Advanced Placement courses to prepare students for the demands of Advanced Placement coursework.
- (2) The Department of Education shall approve all classes designated as pre-Advanced Placement courses.

(b) An endorsed concurrent enrollment course must meet the following requirements:

(1) The course must be a course offered by an institution of higher learning in this state that is:

(A) Approved through the institution of higher learning's normal process; and

(B) Listed in the institution of higher learning's catalog;

(2) The course content and instruction must meet the same standards and adopt the same learning outcomes as those developed for a course taught on the campus of the institution of higher education, including without limitation:

(A) The administration of any departmental exams applicable to the course; and

(B) The use of substantially the same book and syllabus as is used at the college level;

(3) The course must be taught by an instructor with the qualifications required under § 6-16-1203(b);

(4) The institution of higher education offering the course must:

(A) Provide to the course instructor staff development, supervision, and evaluation; and

(B)(i) Provide the students enrolled in the course with:

(a) Academic guidance counseling; and

(b) The opportunity to utilize the on-campus library or other academic resources of the institution of higher education.

(ii) Nothing in this subdivision (b)(4) shall preclude institutions of higher education from collaborating to meet the requirements of this subdivision (b)(4);

(5) To be eligible to enroll in an endorsed concurrent enrollment course, the student must:

(A) Be admitted by the institution of higher education as a non-degree or non-certificate seeking student; and

(B) Meet all of the prerequisites for the course in which he or she is enrolled; and

(6)(A) Credit for the endorsed concurrent enrollment course may only be awarded by the institution of higher education offering the course.

(B) Nothing in this subdivision (b)(6) shall preclude institutions of higher education from collaborating to provide the course and award course credit.

(c) Beginning with the 2008-2009 school year, all school districts shall offer one (1) College Board Advanced Placement course in each of the four (4) core areas of math, English, science, and social studies for a total of four (4) courses.

(d)(1) The requirement under subsection (c) of this section shall be phased in over a period of four (4) years beginning with the 2005-2006 school year.

(2) Beginning with the 2008-2009 school year, all high schools in Arkansas shall offer a minimum of four (4) Advanced Placement courses

by adding at least one (1) core course each year to the list of courses available to high school students.

History. Acts 2003 (2nd Ex. Sess.), No. 102, § 1; 2007, No. 936, § 3.

A.C.R.C. Notes. Acts 2007, No. 936, § 5, provided:

“Contingent upon legislative appropriation and the availability of funding, Rich Mountain Community College shall develop a two-year pilot program implementing endorsed concurrent enrollment

courses for public high school students at no cost to the enrolled students.”

Amendments. The 2007 amendment deleted “of advanced placement courses” from the section heading; redesignated former (a) and (b) as present (a)(1) and (a)(2); deleted former (b)(2); added (b); and made related changes.

6-16-1205. [Repealed.]

Publisher’s Notes. This section, concerning Concurrent Enrollment Course Approval Panel, was repealed by Acts

2007, No. 936, § 4. The section was derived from Acts 2003 (2nd Ex. Sess.), No. 102, § 1.

6-16-1206. Exemption.

Any high school offering the International Baccalaureate Diploma Program shall be exempt from the provisions of this subchapter.

History. Acts 2003 (2nd Ex. Sess.), No. 102, § 1.

SUBCHAPTER 13 — END-OF-COURSE SUCCESS INCENTIVE PROGRAM

SECTION.

6-16-1301. End-of-Course Success Incentive Program.

6-16-1301. End-of-Course Success Incentive Program.

(a)(1) The End-of-Course Success Incentive Program is established, to be administered by the Commissioner of Education.

(2) Contingent upon legislative appropriations, schools will be awarded fifty dollars (\$50.00) for each student passing the end-of-course assessment on his or her first attempt.

(3) These funds shall be utilized in the schools to improve student academic performance.

(b) Subject to legislative appropriations, a teacher teaching a course that has a state-required end-of-course assessment may be awarded subsidized teacher training for that particular course at a cost not to exceed six hundred fifty dollars (\$650) per teacher.

(c) The provisions of this section shall be contingent on the appropriation and availability of funding for that purpose.

(d) The State Board of Education is authorized to promulgate rules necessary to implement this subchapter.

History. Acts 2005, No. 2197, § 2.

CHAPTER 17

PERSONNEL

SUBCHAPTER.

1. GENERAL PROVISIONS.
2. PERSONNEL POLICIES.
3. EMPLOYMENT AND ASSIGNMENT.
4. CERTIFICATION GENERALLY.
5. ARKANSAS TEACHER EDUCATION, CERTIFICATION, AND EVALUATION COMMITTEE. [REPEALED.]
6. CERTIFIED PERSONNEL TESTING PROGRAM.
7. IN-SERVICE TRAINING.
8. TEACHERS' SALARIES GENERALLY.
9. THE ARKANSAS TEACHERS' SALARY LAW.
10. MINIMUM SALARIES FOR TEACHERS.
11. INSURANCE.
12. TEACHERS' MINIMUM SICK LEAVE LAW.
13. SCHOOL EMPLOYEES' MINIMUM SICK LEAVE LAW.
14. WORKERS' COMPENSATION.
15. TEACHER FAIR DISMISSAL ACT.
16. MASTER SCHOOL PRINCIPAL PROGRAM.
17. PUBLIC SCHOOL EMPLOYEE FAIR HEARING ACT.
18. MINORITY TEACHER RECRUITMENT AND TRAINING PROGRAM. [REPEALED.]
19. MINORITY RECRUITMENT.
20. ARKANSAS TEACHERS' POSTGRADUATE SCHOLARSHIP PROGRAM ACT. [REPEALED.]
21. EDUCATOR COMPENSATION ACT. [REPEALED.]
22. CLASSIFIED SCHOOL EMPLOYEE MINIMUM SALARY ACT.
23. PERSONNEL POLICY LAW FOR CLASSIFIED EMPLOYEES.
24. TEACHER COMPENSATION PROGRAM OF 2003.
25. ARKANSAS TEACHER OF THE YEAR ACT.
26. LIFETIME TEACHING LICENSE.
27. SCIENCE, TECHNOLOGY, ENGINEERING, AND MATH FUND.

A.C.R.C. Notes. References to "this chapter" in subchapters 1-15 may not ap-

ply to subchapters 17-20, which were enacted subsequently.

RESEARCH REFERENCES

A.L.R. Personal liability of teacher for personal injury or death of student. 34 A.L.R.4th 228.

Personal liability of public school executive or administrative officer in negligence action for personal injury or death of student. 35 A.L.R.4th 272.

Personal liability in negligence action of public school employee, other than teacher or executive or administrative officer, for personal injury or death of stu-

dent. 35 A.L.R.4th 328.

Public school teacher's self-defense, or defense of another, as justification, in dismissal proceedings, for use or threat of use of force against student. 37 A.L.R.4th 842.

Am. Jur. 68 Am. Jur. 2d, Schools, § 122 et seq.

C.J.S. 78 C.J.S., Schools, § 144 et seq.

SUBCHAPTER 1 — GENERAL PROVISIONS

SECTION.

- 6-17-101. Certificate of health — Tuberculosis tests.
- 6-17-102. Emergency first aid personnel.
- 6-17-103. [Repealed.]
- 6-17-104. Teachers' records and reports.
- 6-17-105. [Repealed.]
- 6-17-106. Insult or abuse of teacher.
- 6-17-107. Reporting student drug abuse — Provision of counseling, referrals, medical care, or other assistance to suicidal youths — Immunity from liability.
- 6-17-108. Authority for teachers to wear religious clothing.
- 6-17-109. Travel reimbursement for family and consumer science teachers.

SECTION.

- 6-17-110. Program to increase racial and ethnic sensitivity.
- 6-17-111. Duty-free lunch period.
- 6-17-112. Corporal punishment — Immunity from liability.
- 6-17-113. Duty to report and investigate student criminal acts.
- 6-17-114. Daily planning period.
- 6-17-115. Elective or appointive office — State policy — Public school district policy.
- 6-17-116. The Arkansas School Children Protection Act.
- 6-17-117. Noninstructional duties.
- 6-17-118. Public education salvage computer loan program.
- 6-17-119. Alternative pay programs.

Effective Dates. Acts 1923, No. 397, § 3: approved Mar. 19, 1923. Emergency clause provided: "This act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist and this act shall take effect and be in force from and after its passage."

Acts 1931, No. 169, § 198: approved Mar. 25, 1931. Emergency clause provided: "It is found as a fact that the advent of the automobile, and the great improvement in the roads of the State have worked great changes in the system of administering the public schools of the State, and there is occasion to change the boundaries of many such districts before the end of the current school term, to relieve many of them of pressing indebtedness, to immediately administer to the health of many pupils in the schools, and to distribute State Funds to many of the schools in the near future to prevent some of them from having to close for the lack of funds; therefore, it is necessary that this act take immediate effect for the preservation of public peace, health, and safety; therefore, an emergency is declared and this act shall take effect and be in force immediately after its passage."

Acts 1947, No. 326, § 6: July 1, 1947.

Acts 1981, No. 732, § 11: July 1, 1981. Emergency clause provided: "It is hereby

found and determined by the Seventy-Third General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1981 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1981 could work irreparable harm upon the proper administration and providing of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1981."

Acts 1983, No. 382, § 3: Mar. 9, 1983. Emergency clause provided: "It is hereby found and determined by the General Assembly that every effort must be made to prevent drug abuse by children within our school systems; and that this Act is designed to offer means and encouragement to teachers and school officials to call to the attention of a child's parents, to law enforcement officials, or health care providers instances of drug abuse by children, without the fear of civil liability therefor; and that the provisions of this

Act will discourage drug abuse and its harmful effects upon the young people of this State. Therefore, and emergency is hereby declared to exist and this Act, being immediately necessary for the preservation of the public peace, health, and safety, shall be in full force and effect from and after its passage and approval."

Acts 1987, No. 558, § 3: effective with 1987-88 school year and each school year thereafter.

Acts 1987, No. 677, § 5: Emergency failed to pass. Emergency clause provided: "It is hereby found and determined by the General Assembly that the services provided by the local health units of the State Department of Health are services that are essential to the health and welfare of residents of the various areas of the State; that as a result of recent state budget cuts, funding for the local health units has been reduced significantly and that unless additional funds are provided for support of the local health units, the services provided by the units will be seriously curtailed to the detriment of the health of residents in the various areas of the State; that this Act is designed to permit the State Board of Health to levy nominal charges for client visits to the local health units with such fees to be collected only from those clients who are financially able to pay the fee, with funds derived from such fees to be used exclusively for the support of the Bureau of Community Health Services, to enable them to continue to provide essential health services; that this Act should be given effect at the earliest possible date to enable the State Board of Health to levy and begin collection of the fees authorized herein and to thereby avoid curtailment of services provided by the various local health units. Therefore, an emergency of the public peace, health and safety shall be in full force and effect from and after its passage and approval." Approved Apr. 7, 1987.

Acts 1991, No. 542, § 11: Mar. 14, 1991. Emergency clause provided: "It is hereby found and determined by the Seventy-Eighth General Assembly that a recent court decision has led to uncertainty in the area of immunity under existing Arkansas Code provisions; that to clarify such provisions will allow those persons to avoid needless legal expenses resulting from the possible misinterpretation of the law. Therefore, an emergency is hereby

declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1991, No. 587, § 5: Mar. 18, 1991. Emergency clause provided: "It is hereby found and determined by the Seventy-Eighth General Assembly that the increasing frequency of suicides constitutes a serious and immediate threat to the welfare of the youth of this State and that teachers, school counsellors and other school personnel, health care providers, and suicide prevention counsellors should be allowed to provide assistance without fear of being sued as a result thereof. Therefore, an emergency is hereby declared to exist and this Act being immediately necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1994 (2nd Ex. Sess.), No. 51, § 9: Aug. 25, 1994. Emergency clause provided: "It is hereby found and determined by the Seventy-Ninth General Assembly of the State of Arkansas, meeting in Second Extraordinary Session, that student discipline is essential to the creation of an optimum learning environment; and that the only place that many individuals are likely to learn self-control and good behavior is in the public schools; and that teachers and administrators in school districts that authorizes corporal punishment should have adequate protection from civil liability, provided only that the corporal punishment is administered in accord with certain procedures. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health, and safety, shall be in full force and effect from and after its passage and approval."

Acts 1997, No. 112, § 40: Feb. 7, 1997. Emergency clause provided: "It is hereby found and determined by the General Assembly that Act 10 of the First Extraordinary Session of 1995 abolished the Joint Interim Committee on Education and in its place established the House Interim Committee and Senate Interim Committee on Education; that various sections of the Arkansas Code refer to the Joint Interim Committee on Education and should be corrected to refer to the House

and Senate Interim Committees on Education; that this act so provides; and that this act should go into effect immediately in order to make the laws compatible as soon as possible. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 1997, No. 787, § 9: March 24, 1997. Emergency clause provided: "It is hereby found and determined by the General Assembly that the Arkansas Code does not now require Arkansas history to be taught in the public schools in this state; that Arkansas history is not being taught in all public schools in this state;

that such failure must be addressed as soon as possible; that this act establishes the mechanism to ensure that Arkansas history is taught in each public school in this state and that this act should go into effect immediately in order that it might be implemented in the 1997-98 school year. Therefore an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 1999, No. 1078, § 92: July 1, 2000.
Acts 2005, No. 1881, § 2; effective beginning Aug. 1, 2005.
Acts 2005, No. 1943, § 3: effective beginning Aug. 1, 2005.

RESEARCH REFERENCES

Ark. L. Rev. The Emerging Law of Students' Rights, 23 Ark. L. Rev. 619.

6-17-101. Certificate of health — Tuberculosis tests.

- (a)(1) Except as provided in subdivision (a)(4) of this section, prior to beginning employment each school year, every newly hired public school employee within this state shall present to the secretary of the board of directors of the employing school district a certificate of health dated not more than ninety (90) days prior to the date of its presentation stating that the employee is free from tuberculosis.
- (2) The status of the individual regarding possible tuberculosis infection must be determined by a method prescribed by regulation of the State Board of Health, and reactors must undergo sufficient additional tests prescribed by regulation of the State Board of Health and shall be scheduled for a periodic reexamination according to the individual's risk status.
- (3) Certificates of health stating that public school employees are free from tuberculosis infection may be issued by a regularly licensed physician or regularly constituted health authority, but interpretation of any X ray film must be made by a competent roentgenologist or physician experienced in tuberculosis.

(4) A newly hired employee who has had the required screening performed in the United States within the six (6) months prior to employment will not be required to have it repeated, provided that the employee presents documentation to the hiring school district in accordance with rules established by the State Board of Health.

(b) All school cafeteria employees and other school employees handling food shall comply with the same health requirements imposed upon employees of restaurants and other food service establishments in the State of Arkansas.

(c) Any teacher or other school employee or member of a school board of directors within this state violating the terms of this section shall be guilty of a violation and upon conviction be fined not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100).

History. Acts 1931, No. 169, § 194; Pope's Dig., §§ 3597, 11636; Acts 1947, No. 326, § 1; 1965, No. 455, § 1; 1977, No. 97, § 1; A.S.A. 1947, §§ 80-1210 — 80-1213; Acts 1987, No. 677, § 4; 1989, No. 640, § 1; 2005, No. 1994, § 62; 2007, No. 313, § 1.

Amendments. The 2005 amendment substituted "violation" for "misdemeanor" in (c).

The 2007 amendment added "Except as provided in subdivision (a)(4) of this section" at the beginning of (a)(1), added (a)(4), and made related changes.

CASE NOTES

Request.

Schoolteacher who had periodic health examinations over a period of years was not required to submit certificate of health prior to entering into contract for another

school year with school district where no request for certificate was made. *Nicholson v. Ash Flat School Dist.*, 220 Ark. 787, 249 S.W.2d 983 (1952).

6-17-102. Emergency first aid personnel.

Every public elementary school and every public secondary school in the State of Arkansas shall have in its employ at least one (1) person who is certified by the American Red Cross or approved by the Department of Education as qualified to administer emergency first aid who shall be on the school grounds during normal school hours.

History. Acts 1977, No. 395, § 1; A.S.A. 1947, § 80-1263.

6-17-103. [Repealed.]

Publisher's Notes. This section, concerning teachers' meetings, was repealed by Acts 1993, No. 294, § 11. The section

was derived from Acts 1931, No. 169, § 184; Pope's Dig., § 11626; Acts 1945, No. 75, § 1; A.S.A. 1947, § 80-1218.

6-17-104. Teachers' records and reports.

(a) The teacher shall keep such records and make such reports as may be required by the school district board of directors employing the teacher.

(b) No teacher shall be entitled to the last month's pay under his or her contract with a public school district until he or she has provided to the school district all records and reports required by the school district.

History. Acts 1931, No. 169, §§ 169, 172; Pope's Dig., §§ 11611, 11614; A.S.A. 1947, §§ 80-1215, 80-1217; Acts 1993, No. 294, § 11; 1999, No. 1078, § 57; 2007, No. 311, § 1.

Amendments. The 2007 amendment

substituted "records and reports" for "registers, records, and reports" in the section heading; added "employing the teacher" at the end of (a); and rewrote (b).

Effective Dates. Acts 1999, No. 1078, § 92: July 1, 2000.

6-17-105. [Repealed.]

Publisher's Notes. This section, concerning administrators' reports, was repealed by Acts 1999, No. 100, § 10 and No. 1078, § 58. The section was derived

from Acts 1931, No. 169, § 99; Pope's Dig., § 11542; A.S.A. 1947, § 80-1216; Acts 1993, No. 294, § 11.

6-17-106. Insult or abuse of teacher.

(a)(1) It is unlawful during regular school hours and in a place where a public school employee is required to be in the course of his or her duties for any person to address a public school employee using language that in its common acceptance is calculated to:

(A) Cause a breach of the peace;

(B) Materially and substantially interfere with the operation of the school; or

(C) Arouse the person to whom it is addressed to anger to the extent likely to cause imminent retaliation.

(2) A person who violates this section shall be guilty of a violation and upon conviction be liable for a fine of not less than one hundred dollars (\$100) nor more than one thousand five hundred dollars (\$1,500).

(b) Each school district shall report to the Department of Education any prosecutions within the school districts under this section.

History. Acts 1979, No. 125, § 1; A.S.A. 1947, § 80-1905.1; Acts 1987, No. 741, § 1; 2001, No. 1565, § 1; 2005, No. 1994, § 63.

Publisher's Notes. The version of subsection (a) of this section prior to its amendment by Acts 2001, No. 1565, § 1,

was declared unconstitutional in *Shoemaker v. State*, 343 Ark. 727, 38 S.W.3d 350 (2001).

Amendments. The 2005 amendment substituted "violation" for "misdemeanor" in (a)(2).

RESEARCH REFERENCES

U. Ark. Little Rock L.J. Survey—Criminal Law, 10 U. Ark. Little Rock L.J. 559.

U. Ark. Little Rock L. Rev. Survey of Legislation, 2001 Arkansas General As-

sembly, Education Law, 24 U. Ark. Little Rock L. Rev. 453.

Annual Survey of Caselaw, Constitutional Law, 24 U. Ark. Little Rock L. Rev. 905.

CASE NOTES

ANALYSIS

Constitutionality.
Evidence.
Instruction.

Constitutionality.

Subsection (a) is unconstitutional as it improperly impinges on the First Amendment, as well as the Due Process Clause of the Fourteenth Amendment of the United States Constitution. *Shoemaker v. State*, 343 Ark. 727, 38 S.W.3d 350 (2001).

Evidence.

In a prosecution for insulting a teacher at his school in the presence of his pupils, it was not error for the court to ask a witness whether the teacher seemed to be offended or insulted by the conduct of the defendant. *New v. State*, 99 Ark. 142, 137 S.W. 564 (1911).

In a prosecution for visiting a school and insulting a teacher in the presence of the pupils, it was not error to permit

witnesses to testify as to threats made at the time by defendant against the teacher and that he afterward carried the threats into execution, as such testimony tended to show the defendant's disposition of mind at the time of the alleged insult. *New v. State*, 99 Ark. 142, 137 S.W. 564 (1911).

Where the defendant was proved by undisputed evidence to have visited the school and insulted the teacher, it was not prejudicial error to permit a witness to testify that the defendant used "vile, profane and abusive language" toward the teacher since the punishment for the offense being fixed, the testimony could not have increased the punishment. *New v. State*, 99 Ark. 142, 137 S.W. 564 (1911).

Instruction.

It was not error in a prosecution for insulting a teacher in the presence of his pupils to instruct that to insult means to offend or make angry. *New v. State*, 99 Ark. 142, 137 S.W. 564 (1911).

6-17-107. Reporting student drug abuse — Provision of counseling, referrals, medical care, or other assistance to suicidal youths — Immunity from liability.

(a) Teachers and other school personnel in this state shall be immune from liability and suit for damages for communicating information in good faith concerning drug abuse by any pupil to that pupil's parents, to law enforcement officers, or to health care providers.

(b) Teachers, school counselors, school health care providers, and other school personnel shall be immune from any civil liability for providing counseling, referral, emergency medical care, or other assistance offered in good faith to suicidal students or other suicidal youth. "Suicidal" refers to a person who poses a substantial risk of physical harm to himself or herself as manifested by evidence of, threats of, or attempts at suicide or self-inflicted bodily harm or by evidence of other behavior or thoughts that create a grave and imminent risk to his or her physical condition.

(c) This section shall not preclude liability for civil damages where the individual negligently performs professional counseling or nursing services which he or she is licensed under state law to perform.

(d) This section shall not preclude liability for civil damages as the result of gross negligence.

History. Acts 1983, No. 382, § 1; A.S.A. 1947, § 80-1265; Acts 1991, No. 542, § 2; 1991, No. 587, § 1.

6-17-108. Authority for teachers to wear religious clothing.

Any teacher may wear the clothing of any established and recognized religion in the public schools and institutions of this state.

History. Acts 1973, No. 196, § 1; A.S.A. 1947, § 80-1261.

6-17-109. Travel reimbursement for family and consumer science teachers.

Teachers of family and consumer science shall be reimbursed for travel in the same manner as provided for teachers of agriculture.

History. Acts 1989 (1st Ex. Sess.), No. 127, § 28; 1989 (1st Ex. Sess.), No. 276, § 46; 1999, No. 1323, § 19.

A.C.R.C. Notes. Former § 6-17-109, concerning travel reimbursement for home economics teachers, is deemed to be superseded by this section. The former

section was derived from Acts 1987, No. 893, § 46; 1987, No. 1058, § 31. A similar provision which was also codified as § 6-17-109, and was previously superseded, was derived from Acts 1983, No. 308, § 31; 1983, No. 929, § 25.

6-17-110. Program to increase racial and ethnic sensitivity.

(a) The State Board of Education is hereby authorized and directed to develop, in cooperation with the Arkansas Black History Advisory Committee, an inclusive statewide program to increase the racial and ethnic sensitivity of teachers and administrators in the public schools of this state.

(b) The program shall serve to assist teachers and administrators in developing a greater awareness of ethnic and racial differences, improving interpersonal skills, and enhancing racial harmony.

(c) Participating schools and school districts shall permit their teachers and administrators who have received training in the program to assist in training other teachers and administrators.

(d) Colleges and universities are hereby encouraged to work with neighboring local school districts regarding professional development of racial and ethnic awareness.

(e) Records shall be kept of the activities authorized by this section.

History. Acts 1993, No. 197, § 2.

Publisher's Notes. Acts 1991, No. 343, § 13, provided: "The Teacher Career Development Commission created under Arkansas Code § 6-17-110 is abolished."

Former § 6-17-110, concerning teacher career development, was repealed by Acts 1991, No. 343, § 13. The former section was derived from Acts 1985, No. 1061, §§ 1, 2; 1985 (1st Ex. Sess.), No. 15, §§ 1-3; 1985 (1st Ex. Sess.), No. 31, §§ 1-3; A.S.A. 1947, §§ 80-1271 — 80-1273.

Acts 1993, No. 197, § 1, provided: "The

General Assembly hereby acknowledges that the citizens of Arkansas come from diverse racial and ethnic backgrounds and that the only common meeting ground for many individuals is in the public schools. It is imperative that the persons charged with administration of the public schools, with supervision of students in the classroom, and with parent consultations should be sensitive to racial and ethnic differences among students, parents, fellow teachers, and administrators. Therefore, the purpose of this act is to serve as a mandate to the public schools of Arkan-

sas to increase the racial and ethnic sensitivity of all certified personnel.”

6-17-111. Duty-free lunch period.

(a)(1) Each school district in this state shall provide at least a thirty-minute uninterrupted duty-free lunch period during each student instructional day for each certified school employee in its employment.

(2) Any teacher not receiving a duty-free lunch period during each student instructional day as provided in subdivision (a)(1) of this section shall be compensated at his or her hourly rate of pay for each missed lunch period.

(3) A school district shall be exempt from the provisions of this subsection if:

(A) It has collectively negotiated a contract through a local teachers' association; and

(B) The collectively negotiated contract expressly addresses a duty-free lunch period.

(b) Lunchroom supervisors who have been in-serviced may be volunteers, noncertified personnel, or aides.

History. Acts 1987, No. 558, § 1; 2001, No. 1373, § 1; 2005, No. 1881, § 1.

A.C.R.C. Notes. Acts 1987, No. 558, § 1, provided, in part, that districts currently providing an uninterrupted, duty-free lunch shall continue to do so in 1987-88.

Amendments. The 2005 amendment added (a)(3); in (a)(1), deleted “For a minimum of eighty percent (80%) of the student contact days” at the beginning and inserted “during each student instructional day”; and, in (a)(2), substituted “pe-

riod during each student instructional day as provided in subdivision (a)(1) of this section shall be compensated at his or her hourly rate of pay” for “for a minimum of eighty percent (80%) of the student contact days shall receive an hourly per diem rate,” and deleted “unless the teacher waives his or her right to be compensated” at the end.

Effective Dates. Acts 2005, No. 1881, § 2, provided:

“This act shall be effective beginning August 1, 2005.”

6-17-112. Corporal punishment — Immunity from liability.

(a) Teachers and administrators in a school district that authorizes use of corporal punishment in the school district's written student discipline policy shall be immune from any civil liability for administering corporal punishment to students, provided only that the corporal punishment is administered in substantial compliance with the school district's written student discipline policy.

(b) As used in subsection (a) of this section, “teachers and administrators” means those persons employed by a school district and required to have a state-issued certificate as a condition of their employment.

History. Acts 1994 (2nd Ex. Sess.), No. 51, §§ 3, 5.

6-17-113. Duty to report and investigate student criminal acts.

(a) As used in this section:

(1) "Act of violence" means any violation of Arkansas law where a person purposely or knowingly causes or threatens to cause death or serious physical injury to another person;

(2) "Deadly weapon" means:

(A) A firearm or anything manifestly designed, made, or adapted for the purpose of inflicting death or serious physical injury; or

(B) Anything that in the manner of its use or intended use is capable of causing death or serious physical injury; and

(3) "Firearm" means any device designed, made, or adapted to expel a projectile by the action of an explosive or any device readily convertible to that use, including such a device that is not loaded or lacks a clip or other component to render it immediately operable, and components that can readily be assembled into such a device.

(b) Whenever the principal or other person in charge of a public school has personal knowledge or has received information leading to a reasonable belief that any person has committed or has threatened to commit an act of violence or any crime involving a deadly weapon on school property or while under school supervision, the principal or the person in charge shall immediately report the incident or threat to the superintendent of the school district and the appropriate local law enforcement agency. The report shall be by telephone or in person immediately after the incident or threat and shall be followed by a written report within three (3) business days. The principal shall notify any school employee or other person who initially reported the incident that a report has been made to the appropriate law enforcement agency. The superintendent or his designee shall notify the local school board of directors of any report made to law enforcement under this section.

(c)(1) Whenever a law enforcement officer receives a report of an incident pursuant to subsection (b) of this section, that officer shall immediately report the incident to the office of the prosecuting attorney and shall immediately initiate an investigation of the incident.

(2) The investigation shall be conducted with all reasonable haste and, upon completion, shall be referred to the prosecuting attorney.

(3) The prosecuting attorney shall implement the appropriate course of action and within thirty (30) calendar days after receipt of the file, the prosecuting attorney shall provide a written report to the principal. The report shall state:

(A) Whether the investigation into the reported incident is ongoing;

(B) Whether any charges have been filed in either circuit court or the juvenile division of circuit court as a result of the reported incident; and

(C) The disposition of the case.

(4) Upon receipt of the report from the prosecuting attorney, the principal shall notify any school employee or any other person who

initially reported the incident that a report has been received from the prosecuting attorney.

(d) Excluding the reporting requirement set out in subdivision (c)(3) of this section, any person who purposely fails to report as required by this section shall be guilty of a Class C misdemeanor.

(e) The State Board of Education shall promulgate rules and regulations to ensure uniform compliance with the requirements of this section and shall consult with the office of the Attorney General concerning the development of these rules and regulations.

History. Acts 1995, No. 888, § 1; 1997, No. 1243, § 1; 1999, No. 1520, § 1.

6-17-114. Daily planning period.

(a)(1) Effective beginning the 2003-2004 school year, each school district in this state shall provide a minimum of two hundred (200) minutes each week for each teacher to schedule time for conferences, instructional planning, and preparation for all classroom teachers employed by the school district.

(2)(A) The planning time shall be in increments of no less than forty (40) minutes during the student instructional day unless a teacher submits a written request to be allowed to have his or her planning time scheduled at some time other than during the student instructional day.

(B) A teacher who does not receive the planning time required under subdivision (a)(2)(A) of this section during the student instructional day shall be compensated at his or her hourly rate of pay for each missed planning period except for planning periods missed because of occasional, not-regularly-scheduled field trips, fire drills, or bomb scares.

(C) A school district shall be exempt from the provisions of this subdivision (a)(2) if it has collectively negotiated a contract through a local teachers' association and the collectively negotiated contract expressly provides for a teacher's daily planning period.

(b)(1) No school district shall provide planning time as required by this section by lengthening the school day unless the school district compensates teachers for the additional time at an hourly per diem rate.

(2) Any teacher not receiving individual planning time as provided for in this section shall be compensated for the planning time lost at his or her hourly rate of pay.

(c) Each school district shall implement the requirements of this section in accordance with § 6-17-201 et seq.

(d) As used in this section, "student instructional day" means the time that students are required to be present at school.

History. Acts 1997, No. 1343, § 1; 2001, No. 1208, § 1; 2003, No. 462, § 1; 2005, No. 1943, §§ 1, 2.

Publisher's Notes. Acts 1997, No. 1343 became law without the Governor's signature.

Amendments. The 2005 amendment

added (a)(2)(B) and (a)(2)(C); added the language beginning "during the student instructional day" in (a)(2)(A); and added (d).

Effective Dates. Acts 2005, No. 1943, § 3 provided: "This act shall be effective beginning August 1, 2005."

RESEARCH REFERENCES

U. Ark. Little Rock L. Rev. Survey of Legislation, 2003 Arkansas General Assembly, Education Law, Teachers and

Other School Employees, 26 U. Ark. Little Rock L. Rev. 377.

6-17-115. Elective or appointive office — State policy — Public school district policy.

(a) It is the policy of this state to encourage public school employees to participate in government and to reduce barriers to their seeking or holding an elective or appointive office. Therefore, it is the purpose of this section to provide public school employees clear information concerning the policies of the school affecting the rights of employees to seek or hold elective or appointive office.

(b) Each public school district shall adopt a policy concerning the right of employees of the school district to seek and hold an elective or an appointive office. The policy shall state the consequences, if any, for seeking or holding an elective or appointive office.

History. Acts 1997, No. 1302, §§ 1, 2. now codified as § 6-17-115(b).

A.C.R.C. Notes. Former § 6-17-116 is

6-17-116. The Arkansas School Children Protection Act.

(a) This section shall be known and may be cited as "The Arkansas School Children Protection Act".

(b) For purposes of this section:

(1) "Conviction" means having pleaded guilty or nolo contendere to or having been found guilty of committing a sexual offense against a minor or student; and

(2) A "sexual offense" is one described in § 5-14-101 et seq.

(c)(1) Any public school district employee who commits a sexual offense against a minor shall upon conviction be dismissed from employment and shall not thereafter be eligible for employment by any school in this state.

(2) Any public school teacher who commits a sexual offense under § 5-14-125(a)(5) shall upon conviction be dismissed from employment and shall not thereafter be eligible for employment by any school in this state.

History. Acts 2001, No. 1732, § 1; 2003, No. 1720, § 1.

6-17-117. Noninstructional duties.

(a)(1) The purpose of this section is to provide additional time for instructional purposes and to reduce the amount of time for noninstructional duties.

(2) Any teacher assigned more than sixty (60) minutes of noninstructional duties per week shall be contracted in accordance with § 6-17-807(g).

(b) As used in this section, “noninstructional duties” means the supervision of students before or after the instructional day begins or ends for students or for the supervision of students during breakfasts, lunches, recesses, or scheduled breaks.

(c) As used in this section, “instructional purposes” means activities initiated by the teacher related to teaching duties, including, but not limited to, contacting parents, assessing student performance, documenting student performance, organizing the classroom, preparing instructional materials, and other teaching responsibilities related to instructional planning and the direct instruction of students.

History. Acts 2003, No. 1398, § 1; 2003 (2nd Ex. Sess.), No. 37, § 1.

CASE NOTES**In General.**

Trial court did not err in granting teacher's motion for class certification in a breach of contract action against the school district because there were adequate methods for determining the identity of class members, the class definition was specific enough to prevent it from becoming too unwieldy, and there were common issues as to what comprised a

school day under the teacher contracts and the teachers' uncompensated non-instructional duties; further, the class definition did not require the trial court to delve into the ultimate issue in determining which teachers were class members. *Van Buren Sch. Dist. v. Jones*, 365 Ark. 610, — S.W.3d — (2006).

Cited: *Carter v. Arkansas*, 392 F.3d 965 (8th Cir. 2004).

6-17-118. Public education salvage computer loan program.

(a)(1) Any public school district or open-enrollment charter school may develop a program that offers that school district's or charter school's surplus personal computers for loan to public school students attending that public school district or open-enrollment charter school.

(2) Before a public school district or open-enrollment charter school may loan any of its surplus personal computers under this program, it shall:

(A) Determine that the personal computer:

(i) Is outdated;

(ii) Is no longer useful to the school district or charter school except as provided in subdivision (a)(2)(A)(iv) of this section;

(iii) Has no reasonable resale value; and

(iv) May be used by the school district or charter school as an at-home educational tool for students; and

(B) Remove all information and other records from the personal computer that are required by law not to be disclosed by the school district or charter school.

(3) A public school district or open-enrollment charter school may loan a surplus personal computer to a currently enrolled student of that school district or charter school for no longer than the school year if the student's parent, guardian, or caregiver:

(A) Provides written verification that the student:

(i) Does not have access to a personal computer in his or her home environment;

(ii) Needs the use of a personal computer for educational purposes; and

(iii) Identifies one (1) of the student's teachers who is willing to attest to the student's need for access to a personal computer; and

(B) Signs an agreement:

(i) Accepting legal responsibility and liability for:

(a) The value and maintenance of the personal computer while in the student's possession; and

(b) Any reasonable cost associated with the recovery of the personal computer if it is not returned on the agreed-upon date or is damaged upon return; and

(ii) Agreeing that the school district or charter school may sell the personal computer loaned to the student if the school district or charter school determines that selling the computer would be beneficial and the computer is sold for its fair market value.

(b) The Division of Legislative Audit or any private auditor retained by the public school district or open-enrollment charter school to perform its annual audit shall review the program and report any violation of law or the requirements of this section in the school district's or charter school's annual audit.

(c) The State Board of Education shall promulgate any rules necessary for the implementation of this section.

History. Acts 2005, No. 1673, § 1.

6-17-119. Alternative pay programs.

(a) As used in this section:

(1) "Alternative pay" means a salary amount that is part of the certified employee's or classified employee's total compensation for additional responsibilities, mastery of new knowledge and skills, advanced career opportunities, increased student achievement, attracting highly qualified teachers, or professional development exceeding state minimums;

(2) "Certified employee" means a person employed by a public school who is required to hold a license issued by the Department of Education;

(3) "Classified employee" means a person employed by a public school district under a written annual contract who is not required to have a

teaching certificate issued by the department as a condition of employment; and

(4) "Teacher" means:

(A) Any person who is:

(i) Required to hold a teaching license from the department; and

(ii) Is engaged directly in instruction with students in a classroom setting for more than seventy percent (70%) of the individual's contracted time;

(B) A guidance counselor; or

(C) A librarian.

(b) A public school district may offer or participate in an alternative pay program for its certified employees, classified employees, or both employee groups if:

(1) The program is implemented school district-wide or on a school-by-school basis;

(2) Every eligible certified employee or classified employee may participate in the program;

(3)(A) The program from the beginning is a collaborative effort among the participating school board of directors, administrators, teachers, classified employees, association representatives, and parents with children attending the school district.

(B) The school board of directors, administrators, teachers, and classified employees shall each approve a show of interest resolution in the program by at least seventy percent (70%) or another percentage established by a majority vote of the teachers and approved by the local school board of directors.

(C)(i) Each of the above groups shall be represented on a committee that will design, implement, and evaluate the program.

(ii) Each group shall select its own representatives, and the committee shall be composed of at least fifty percent (50%) classroom teachers.

(D) The program is a personnel policy and shall be promulgated in accordance with § 6-17-201 et seq. and § 6-17-2301 et seq., except to the extent that those personnel policies are negotiable in any school district that recognizes an organization representing a majority of teachers;

(4)(A) The program uses a variety of objective criteria that are credible, clear, specific, measurable indicators of student achievement, and generally accepted best practices to determine pay.

(B) No more than fifty percent (50%) of the program's eligibility requirements or alternative pay shall be related to annual increases in test scores;

(5)(A)(i) The program establishes a clear system of pay.

(ii) The alternative pay system may not be arbitrary.

(B) The alternative pay shall be at least ten percent (10%) of the salary and receivable in one (1) year;

(6) The program has an established and ongoing support system for the participants with the necessary financial and administrative resources to successfully carry the program through;

(7) The program is aligned and linked to each school’s Arkansas Comprehensive School Improvement Plan;

(8) The program is part of a larger set of reforms rather than an isolated approach to improving performance or rewarding certain certified or classified employees;

(9) Each group identified in subdivision (b)(3)(B) approves the finalized program by:

(A) At least a seventy percent (70%) majority; or

(B) Another percentage established by a majority vote of the teachers and approved by the local school board of directors; and

(10)(A) The program respects the right of any teacher or classified employee to elect not to participate in the program.

(B) However, if fifty-one percent (51%) or more of an employee group chooses not to participate, the program shall not be implemented for that group.

(c) The department shall promulgate the rules necessary for the proper implementation of this section.

(d) This section shall not apply to any state-funded alternative teacher compensation pilot program or to any other performance-based pay program operating in a public school on July 31, 2007.

History. Acts 2007, No. 847, §§ 1, 2. “The Arkansas Alternative Pay Programs

A.C.R.C. Notes. Acts 2007, No. 847, Act.”

§ 1, provided: “This act shall be known as

SUBCHAPTER 2 — PERSONNEL POLICIES

SECTION.

6-17-201. Personnel policies require-
ments.

6-17-202. Applicability.

6-17-203. Committee for each school dis-
trict.

6-17-204. Incorporation into teachers’
contracts.

6-17-205. Organization and duties of
committee.

6-17-206. Copies furnished teachers and
administrators.

SECTION.

6-17-207. Accreditation of school district.

6-17-208. Grievance procedure.

6-17-209. Interim personnel policy com-
mittees.

6-17-210. Right to witness or representa-
tive.

6-17-211. Use of personal leave when ad-
ministrator or school em-
ployee is absent from cam-
pus.

A.C.R.C. Notes. References to “this subchapter” in §§ 6-17-201 — 6-17-207 and 6-17-209 may not apply to §§ 6-17-208 and 6-17-210 which were enacted sub-
sequently.

Publisher’s Notes. Former §§ 6-17-201 — 6-17-203, 6-17-205, and 6-17-206, concerning personnel policies, were re-
pealed by Acts 1987, No. 687, § 6. The former sections were derived from the following sources:

6-17-201. Acts 1971, No. 714, § 1; 1975, No. 400, § 1; 1979, No. 840, § 1; A.S.A. 1947, §§ 80-1256, 80-1260.1.

6-17-202. Acts 1971, No. 714, § 2; 1975, No. 400, § 1; A.S.A. 1947, § 80-1257.

6-17-203. Acts 1971, No. 714, § 3; 1975, No. 400, § 1; A.S.A. 1947, § 80-1258.

6-17-205. Acts 1971, No. 714, § 4; 1975, No. 400, § 1; A.S.A. 1947, § 80-1259.

6-17-206. Acts 1971, No. 714, § 5; 1975, No. 400, § 1; A.S.A. 1947, § 80-1260.

Effective Dates. Acts 1983, No. 224, § 4: Feb. 17, 1983. Emergency clause provided: "It is hereby found and determined by the General Assembly that some school districts change their personnel policies pertaining to teachers after contracting with the teachers; that such practice is unconscionable; and that this Act is necessary to cure such inequity. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1991, No. 170, § 5: July 1, 1991. Emergency clause provided: "It is hereby found and determined by the Seventy-Eighth General Assembly of the State of Arkansas that the effectiveness of this act on July 1, 1991, is essential to the operation of the Department of Education and all school districts in this state and that in the event of an extension of the Regular Session, the delay in the effective date of this act beyond July 1, 1991, could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1991."

Acts 1991, No. 558, § 7: Approved Mar. 14, 1991. Emergency clause failed to pass.

Acts 1997, No. 1031, § 5: Apr. 2, 1997. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that it is declared that immediate passage of this act is necessary to ensure that school boards take final action on any proposed policies or proposed amendments to existing policies before the next school year so that any policies or proposed amendments to existing policies that are referred back to the committee can be considered during this school year. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its ap-

proval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 2001, No. 1485, § 2: July 1, 2001. Emergency clause provided: "It is found and determined by the General Assembly that recent litigation has created confusion as to the manner in which school districts pay certified employees and that not to address the issue would create confusion in the state's public school districts and among school personnel. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 2001."

Acts 2001, No. 1765, § 2: Emergency clause failed. It provided: "It is found and determined by the General Assembly that state law provides teachers the opportunity to seek recognition by their school boards for negotiating personnel policies, salaries and other matters; that school boards and their representatives should not discourage efforts by teachers to exercise their rights under Arkansas law; that some teachers in Arkansas have been threatened with a loss of compensation for exercising teacher's rights; and that passage of this act is necessary to ensure that teachers are not threatened by their employers because of any actions taken by the teacher in exercising the teacher's rights as guaranteed by state law. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

6-17-201. Personnel policies requirements.

(a) Each school district in the state shall have a set of written personnel policies, including the teacher salary schedule.

(b) "Personnel policies" means all school district policies, guidelines, regulations, and procedures that pertain to the terms and conditions of a teacher's employment.

(c) The personnel policies shall include, but are not limited to, the following terms and conditions of employment:

- (1) Benefits;
- (2) Compensation;
- (3) Designation of workdays;
- (4) Holidays and noninstructional days;
- (5) The annual calendar;
- (6) Methods of evaluations;
- (7) Extra duties;
- (8) Leave;
- (9) Grievances;
- (10) Dismissal or nonrenewal;
- (11) Reduction in force; and
- (12) Assignment of teacher aides.

(d)(1)(A) No school district shall receive in any year any additional state foundation funding from the Public School Fund until the school district has filed electronically by the established deadline its current personnel policies in a format specified by the Department of Education, including the salary schedule as required by this subchapter.

(B) A written copy of the policies signed by the president of the local school board of directors shall be retained by the school district in a central records location.

(2) The policy and schedule shall be filed electronically with the department no later than September 15 of each year.

(e) The department shall notify any school district that has not filed its policies in accordance with this section.

History. Acts 1987, No. 687, § 1; 1991, No. 170, § 1; 1999, No. 391, § 6; 2003, No. 1120, § 1; 2005, No. 2121, § 3.

A.C.R.C. Notes. As enacted, the 1991 amendment, in (b) began "Beginning July 1, 1991..."

Publisher's Notes. As to repeal of former section, see Publisher's Notes at the beginning of this subchapter.

Amendments. The 2005 amendment

redesignated former (d)(1) as present (d)(1)(A); in (d)(1)(A), substituted "additional state foundation funding" for "funds" and "in a format... by this subchapter" for "including any salary schedules as required by this subchapter, signed by the president of the board"; inserted "electronically" in (d)(1)(A) and (d)(2); added (d)(1)(B); and substituted "schedule" for "schedules" in (d)(2).

CASE NOTES

ANALYSIS

Compliance.
Contract Principles.
Salary Schedule.

Compliance.

While personnel policies do not have the force of law, as a matter of contract law and fair dealing a teacher may reasonably expect the district to comply substantially with its own declared policies. *Helena-West Helena Sch. Dist. #2 v. Randall*, 32 Ark. App. 50, 796 S.W.2d 586 (1990).

Contract Principles.

Traditional contract principles apply to teacher employment contracts, and any ambiguity in a contract must be construed against the party who drafted it. *Helena-West Helena Sch. Dist. #2 v. Randall*, 32 Ark. App. 50, 796 S.W.2d 586 (1990).

Salary Schedule.

A school district may pay a teacher a salary different from the one specified for that teacher on the district's salary schedule when, according to statute and its own personnel policies filed with the State Board of Education, it could pay a teacher less than required by its salary schedule so long as the Board had "good reason" for doing so and stated such reason in the official minutes of the Board's meetings. *Stone v. Mayflower Sch. Dist.*, 319 Ark. 771, 894 S.W.2d 881 (1995).

Cited: *Murray v. Altheimer-Sherrill Pub. Sch.*, 294 Ark. 403, 743 S.W.2d 789 (1988); *Nathaniel v. Forrest City School Dist.*, 300 Ark. 513, 780 S.W.2d 539 (1989); *Junction City Sch. Dist. v. Alphin*, 56 Ark. App. 61, 938 S.W.2d 239 (1997).

6-17-202. Applicability.

(a) The provisions of this subchapter shall not apply in any school district which chooses to officially recognize in its policies an organization representing the majority of the teachers of the school district for the purpose of negotiating personnel policies, salaries, and educational matters of mutual concern under a written policy agreement.

(b) School boards of directors or their representatives shall not take or threaten actions which interfere with, restrain, or coerce a teacher in the exercise of the teacher's right to have an organization represent a majority of the teachers as set forth in this section.

History. Acts 1987, No. 687, § 2; 2001, No. 1765, § 1.

Publisher's Notes. As to repeal of

former section, see Publisher's Notes at the beginning of this subchapter.

RESEARCH REFERENCES

U. Ark. Little Rock L. Rev. Survey of Legislation, 2001 Arkansas General As-

sembly, Education Law, 24 U. Ark. Little Rock L. Rev. 453.

6-17-203. Committee for each school district.

(a) Each school district shall have a committee on personnel policies which shall consist of no fewer than five (5) classroom teachers, and no more than three (3) administrators, one (1) of which may be the superintendent.

(b) The classroom teacher members of each school district's committee on personnel policies shall be elected by a majority of the classroom teachers voting by secret ballot. The election shall be solely and

exclusively conducted by the classroom teachers, including the distribution of ballots to all classroom teachers.

History. Acts 1987, No. 687, § 2; 1989, No. 56, § 1; 1989, No. 479, § 1.

Publisher's Notes. As to repeal of

former section, see Publisher's Notes at the beginning of this subchapter.

CASE NOTES

ANALYSIS

Purpose.
Invalid Boards.

Purpose.

The 1989 amendment made it clear that the General Assembly intended for the election to be conducted by the teachers, not the administration, and not the teachers with the help of the administration. *Nathaniel v. Forrest City School Dist.*, 300 Ark. 513, 780 S.W.2d 539 (1989).

The meaning of subsection (b) is clear — the election is to be “conducted by the teachers”. The phrase “conducted by the teachers” does not mean that teachers are only allowed to vote; it means that they can conduct the election without direction or interference from the administration.

Nathaniel v. Forrest City School Dist., 300 Ark. 513, 780 S.W.2d 539 (1989) (decision prior to the 1989 amendment); *Hope Educ. Ass'n v. Hope Sch. Dist.*, 310 Ark. 768, 839 S.W.2d 526 (1992).

Invalid Boards.

Because the teacher members of the committee on personnel policies were not elected in accordance with subsection (b) of this section, this Committee was invalidly constituted; thus, the Board of Education's failure to submit to the Committee a five percent increase in extra duty pay prior to adoption was excused. *Hope Educ. Ass'n v. Hope Sch. Dist.*, 310 Ark. 768, 839 S.W.2d 526 (1992).

Cited: *Junction City Sch. Dist. v. Alphin*, 56 Ark. App. 61, 938 S.W.2d 239 (1997).

6-17-204. Incorporation into teachers' contracts.

(a) The personnel policies of all school districts shall be considered to be incorporated as terms of the certified personnel contracts and shall be binding upon the certified personnel and the school district.

(b)(1) Any changes or additions to the personnel policies shall not be considered a part of certified personnel contracts until the next fiscal year.

(2)(A) Any changes or additions to the personnel policies may take effect before the next fiscal year only if the changes or additions are approved by a majority of the certified personnel employed by the school district voting by secret ballot.

(B) The voting and counting shall be conducted by the personnel policy committee.

(3) All changes or additions to the personnel policies or new personnel policies shall be made in accordance with this subchapter.

(c)(1)(A) A school district may adopt a uniform policy, in accordance with this subchapter, limiting the number of past years' experience for which all newly employed certified personnel will receive credit on the salary schedule.

(B) The policy shall be written so that a prospective certified employee can determine his or her placement on the salary schedule.

(2) A school district shall adopt, in accordance with this subchapter, a supplement to the salary schedule for those certified staff employed longer than the period covered by the salary schedule and for duties in addition to certified employees' regular teaching assignments.

(3) Compensation policies approved by the personnel policy committee shall not apply to the chief administrator who is charged with administration of salary policy for all employees.

(4) No certified person may waive payment according to the salary schedule.

(d) Under the provisions of The Educator's Compensation Act of 2001, § 6-17-2101 et seq. [Repealed], § 6-5-307(a), and § 6-20-412, no school district shall be prohibited from paying certified staff additional salary increases as a supplement to the salary schedule even though the certified staff is not employed an additional time period longer than the period covered by the salary schedule or required to perform duties in addition to the certified employees' regular teaching assignments.

History. Acts 1983, No. 224, §§ 1, 2; A.S.A. 1947, §§ 80-1258.1, 80-1258.2; Acts 1995, No. 1260, § 1; 1997, No. 931, § 1; 2001, No. 1485, § 1.

A.C.R.C. Notes. The Educator's Compensation Act of 2001, § 6-17-2101 et seq., was repealed by Acts 2005, No. 2121, § 21.

Acts 1997, No. 931, § 2, provided: "It is the intent of the General Assembly by this act to clarify that the personnel policies of a local school district shall be considered part of the district's contract with certified personnel upon which certified personnel can rely."

CASE NOTES

ANALYSIS

Compliance with Policies.
Contract Principles.
Supplemental Salary Schedule.

Compliance with Policies.

While personnel policies do not have the force of law, as a matter of contract law and fair dealing a teacher may reasonably expect the district to comply substantially with its own declared policies. *Helena-West Helena Sch. Dist. #2 v. Randall*, 32 Ark. App. 50, 796 S.W.2d 586 (1990).

Contract Principles.

Traditional contract principles apply to teacher employment contracts, and any ambiguity in a contract must be construed against the party who drafted it. *Helena-West Helena Sch. Dist. #2 v. Randall*, 32 Ark. App. 50, 796 S.W.2d 586 (1990).

Supplemental Salary Schedule.

This section does not require that certified staff work in positions requiring certified personnel in order to receive remuneration under the supplemental salary

schedule for extra work performed; however, a plain reading of this section guarantees remuneration to certified personnel for those job duties performed in addition to their duties as a certified teacher, regardless whether those duties are required to be performed by certified personnel. *Bond v. Lavaca Sch. Dist.*, 73 Ark. App. 5, 38 S.W.3d 923 (2001), rev'd, 347 Ark. 300, 64 S.W.3d 249 (2001).

A school district's supplemental salary schedule violated this section as it did not provide special remuneration for all of the additional duties performed by certified personnel, and specifically did not include special remuneration for the Chapter One Coordinator position. *Bond v. Lavaca Sch. Dist.*, 73 Ark. App. 5, 38 S.W.3d 923 (2001), rev'd, 347 Ark. 300, 64 S.W.3d 249 (2001).

School district was permitted to adopt a supplemental salary schedule for teachers who performed duties in addition to their regular assignments as teachers and it did not violate state statutes when it com-

pensated the teacher at a daily rate of pay for her work as a certified teacher and at a lesser rate according to the supplemental salary schedule for her work as an uncertified program coordinator. *Bond v. La-*

vaca Sch. Dist., 347 Ark. 300, 64 S.W.3d 249 (2001).

Cited: *Junction City Sch. Dist. v. Alphin*, 56 Ark. App. 61, 938 S.W.2d 239 (1997).

6-17-205. Organization and duties of committee.

(a)(1) Each school district's committee on personnel policies shall organize itself in the first quarter of each school year and elect a chair and a secretary.

(2) The committee shall develop a calendar of meetings throughout the year to review the school district's personnel policies in order to determine whether additional policies or amendments to existing policies are needed and to review any proposed distribution of a salary underpayment from previous years.

(3) Minutes of the committee meetings shall be promptly reported and distributed to members of the board of directors and posted in the buildings of the school district, including the administrative offices.

(b)(1) Either the committee or the board of directors may propose new personnel policies or amendments to existing policies if the proposals by the board of directors have been submitted to the committee at least ten (10) working days prior to presentation to the board of directors.

(2) The superintendent may recommend any changes in personnel policies to the board of directors or to the personnel policies committee. The recommendations shall become proposals if adopted by either the board of directors or the committee.

(c) The chair of the committee or a committee member designated by the chair will have the opportunity to orally present the committee's proposed policies or amendments to existing policies to the board of directors.

(d) After presentation to the board of directors, the board of directors shall take action no later than its next regular board of directors meeting.

(e) The board of directors shall have the authority to adopt, reject, or refer back to the committee on personnel policies for further study and revision any proposed policies or amendments to existing policies that are submitted to the board of directors for consideration.

History. Acts 1987, No. 687, § 3; 1993, No. 902, § 1; 1993, No. 1108, § 1; 1993, No. 1187, § 1; 1997, No. 1031, § 1.

A.C.R.C. Notes. Pursuant to § 1-2-207, subsections (c) and (d) of this section are set out above as amended by Acts 1993, Nos. 1108 and 1187. Subsection (c) of this section was also amended by Acts 1993, No. 902 to read as follows: "Either the committee or the board of directors may propose new personnel policies or amendments to existing policies, if the

proposals by the board have been presented to the committee at a regular or special meeting of the committee at least ten (10) working days prior to presentation to the board. The committee will hold a meeting within ten (10) working days of the school board request to present a school board proposal to the committee."

Subsection (d) of this section was also amended by Acts 1993, No. 902, to read as follows: "The chair of the committee or a committee member designated by the

chair will have the opportunity to orally present the committee's proposed policies or amendments to existing policies to the board of directors."

Publisher's Notes. As to repeal of former section, see Publisher's Notes at the beginning of this subchapter.

CASE NOTES

ANALYSIS

Incorporation of Policies into Contracts.
Municipal Immunity.
Submission by Board Excused.
Superintendent's Authority.

Incorporation of Policies into Contracts.

Personnel policies incorporated as terms of contract under former law. *Murray v. Altheimer-Sherrill Pub. Sch.*, 294 Ark. 403, 743 S.W.2d 789 (1988), questioned, *Spainhour v. Dover Pub. Sch. Dist.*, 331 Ark. 53, 958 S.W.2d 528 (1998), questioned, *Western Grove Sch. Dist. v. Terry*, 318 Ark. 316, 885 S.W.2d 300 (1994); *Whitfield v. Little Rock Pub. Sch.*, 25 Ark. App. 207, 756 S.W.2d 125 (1988) (preceding decisions under prior law).

Municipal Immunity.

With regard to all school district policies, a school superintendent is empowered only to recommend changes, which may or may not become proposals; the fact that the superintendent is not an official policymaker for the school district precludes claims against the school district for the superintendent's actions under the "official policy" theory of municipal liability.

Springdale Educ. Ass'n v. Springdale Sch. Dist., 133 F.3d 649 (8th Cir. 1998).

Submission by Board Excused.

Because the teacher members of the committee on personnel policies were not elected in accordance with § 6-17-203(b) (1987), this Committee was invalidly constituted; thus, the Board of Education's failure to submit to the Committee a five percent increase in extra duty pay prior to adoption was excused. *Hope Educ. Ass'n v. Hope Sch. Dist.*, 310 Ark. 768, 839 S.W.2d 526 (1992).

Superintendent's Authority.

Under §§ 6-17-1508 and 6-17-1704, a superintendent does have authority to place a teacher or a noncertified district employee on suspension. *Springdale Educ. Ass'n v. Springdale Sch. Dist.*, 133 F.3d 649 (8th Cir. 1998).

A school board, and not a superintendent, has ultimate responsibility for all district policies, including policies involving unfavorable employment action. *Springdale Educ. Ass'n v. Springdale Sch. Dist.*, 133 F.3d 649 (8th Cir. 1998).

Cited: *Junction City Sch. Dist. v. Alphin*, 56 Ark. App. 61, 938 S.W.2d 239 (1997).

6-17-206. Copies furnished teachers and administrators.

(a)(1) Each teacher or administrator being employed by a school district for the first time shall be given a copy of the school district's personnel policies in effect at the time of his or her employment.

(2) A digital copy provided to an employee or an online copy that is accessible by Internet or intranet will meet the requirements of subdivision (a)(1) of this section.

(3) A hard copy of all policies shall be available to review at each location.

(4) A hard copy shall be given to the individual employee upon request of the employee.

(b)(1) Each teacher or administrator shall be furnished a copy of any amendments to the personnel policies within thirty (30) days after approval of the amendments by the board of directors of the school district.

(2) A digital copy provided to an employee or an online copy that is accessible by Internet or intranet will meet the requirements of subdivision (b)(1) of this section.

(3) A hard copy of all amendments shall be available for review at each location.

(4) A hard copy shall be given to the individual employee upon request of the employee.

History. Acts 1987, No. 687, § 4; 2003, former section, see Publisher's Notes at No. 1334, § 1.

Publisher's Notes. As to repeal of

6-17-207. Accreditation of school district.

No school district which does not have written personnel policies shall be accredited by the Department of Education.

History. Acts 1987, No. 687, § 5.

6-17-208. Grievance procedure.

(a)(1) It is the public policy of the State of Arkansas that:

(A) Each school district shall have a written grievance procedure that provides for an orderly method of resolving concerns raised by an employee at the lowest possible administrative level and in a clear and timely manner for both parties; and

(B)(i) All school employees shall have the right to file grievances and have those grievances heard.

(ii) A group of employees who have the same grievance may file a group grievance.

(2)(A) "Grievance" means any concern related to personnel policy, salary, federal or state laws and regulations, or terms or conditions of employment raised by an employee.

(B) "Employee" means a person employed by a school district under a written contract.

(b)(1) The grievance policy shall include at least the following provisions:

(A) A procedure for resolving the matter informally with the employee's immediate supervisor;

(B) A procedure to appeal in writing an unsatisfactorily resolved grievance from the immediate supervisor to the superintendent of schools or his or her designee;

(C)(i) A procedure to appeal in writing an unsatisfactorily resolved grievance from the superintendent or his or her designee to the school board of directors at the next regularly scheduled school board of directors meeting unless both parties have agreed to a different date.

(ii) The hearing shall be open or closed at the discretion of the employee.

(iii) If the hearing is open, the parent or guardian of any student under the age of eighteen (18) who gives testimony may elect to have the student's testimony given in a closed session; and

(D) The right of a party to be represented by a person of his or her own choosing, but not by a member of a party's immediate family at any level of the procedure.

(2)(A) The determination by the principal, superintendent, or their designees that the concern expressed by the employee is not a grievance may be appealed to the school board of directors for a final decision.

(B) At the hearing:

(i)(a) The employee shall have an adequate opportunity to present the grievance.

(b) The employee shall be provided no less than ninety (90) minutes to present the grievance, unless a shorter period is agreed to by the employee; and

(ii) Both parties shall have the opportunity to present and question witnesses.

(c) The grievance policy shall be adopted in accordance with this subchapter and other applicable policies of the school district.

(d) There shall be no reprisals of any kind against any individual who exercises his or her rights under this section.

(e) Nothing in this section shall be construed as requiring a school district to enter into an agreement recognizing an organization for the purpose of negotiating personnel policies, salaries, and educational matters of mutual concern.

History. Acts 1991, No. 558, §§ 1-3; 1993, No. 1149, §§ 1, 2; 1999, No. 1498, § 1; 2001, No. 1169, § 1; 2003, No. 1357, § 1; 2007, No. 312, § 1.

A.C.R.C. Notes. References to "this

subchapter" in §§ 6-17-201 — 6-17-207 may not apply to this section which was enacted subsequently.

Amendments. The 2007 amendment rewrote (b)(2)(B).

RESEARCH REFERENCES

U. Ark. Little Rock L. Rev. Survey of Legislation, 2003 Arkansas General Assembly, Education Law, Teachers and

Other School Employees, 26 U. Ark. Little Rock L. Rev. 377.

CASE NOTES

Applicability.

School district counselor could not challenge a five-day disciplinary suspension under the provisions of the Teacher Fair Discharge Dismissal Act of 1983, §§ 6-17-1501 through 6-17-1510, because the Act applied only to suspensions imposed in the context of a recommendation that a teacher either be terminated or that the teacher's employment contract not be renewed, and the counselor's suspension

was not of that nature; the counselor had exercised his sole remedy by utilizing the school district grievance procedure established pursuant to this section and was not entitled to further relief. *McGough v. Pine Bluff Sch. Dist.*, 79 Ark. App. 235, 85 S.W.3d 920 (2002).

Public school employee was not without a remedy if he disagreed with a suspension that did not warrant termination or nonrenewal; subsection (b) allows all

school employees to challenge or appeal any disciplinary actions or other grievances through the administration and eventually appeal to the school board.

Releford v. Pine Bluff Sch. Dist. No. 3, 355 Ark. 503, 140 S.W.3d 483 (2004).

Cited: Honeycutt v. City of Fort Smith, 327 Ark. 530, 939 S.W.2d 306 (1997).

6-17-209. Interim personnel policy committees.

(a) For purposes of this section, the following definitions shall apply:

(1) "Consolidation" means any reorganization, merger, collapse, or annexation of any school districts or portions of any school districts either voluntarily or involuntarily;

(2) "Interim school board" means a board consisting of the presidents of the school district boards of directors of the school districts to be consolidated that shall be formed for the purpose of reviewing and adopting a uniform set of policies under this section; and

(3) "New school district" means the resulting school district after consolidation.

(b)(1) As soon as possible after the school boards of directors or the qualified electors of the school districts agree to be consolidated or as soon as possible after any decision is made that the school districts are to be involuntarily consolidated, the personnel policy committee of each of the school districts involved in the consolidation shall meet individually and elect members to form an interim personnel policy committee for the new school district.

(2) The personnel policy committees of the existing school district shall elect:

(A)(i) If three (3) or fewer school districts are consolidating, three (3) existing teacher members of the personnel policy committee from each school district to serve on the interim personnel policy committee; or

(ii) If four (4) or more school districts are consolidating, two (2) existing teacher members of the personnel policy committee from each school district to serve on the interim personnel policy committee; and

(B) One (1) administrator from each of the school districts to serve on the interim personnel policy committee.

(3)(A) The interim personnel policy committee shall elect a chair and a secretary, both of whom shall be classroom teachers, and schedule a calendar of meetings to review all the written uniform policies of the respective school districts that affect the terms and conditions of the teachers' employment.

(B) The interim personnel policy committee shall put together a proposed set of policies for the new school district from the written policies.

(c)(1) After drafting a proposed set of policies for the new school district, the interim personnel policy committee shall meet with the interim school board of the new school district to present and explain to the interim school board the proposed set of policies for the new school district.

(2) Upon request of the interim personnel policy committee, the interim school board shall be entitled to and shall organize itself and meet with the interim personnel policy committee at least twice before June 1 of the school year prior to consolidation for the purpose of reviewing, receiving, and discussing with the interim personnel policy committee the proposed policies for the new school district.

(d) The interim personnel policy committee shall serve as the personnel policy committee of the new school district until a new personnel policy committee is formed and successor personnel policy committee members are elected pursuant to this subchapter or until the new school district chooses to officially recognize in its policies an organization representing a majority of the teachers in the school district for purposes of negotiating as provided for under this subchapter.

(e)(1) The interim school board shall adopt a uniform set of policies before the effective date of the consolidation that shall be the personnel policies for the new school district.

(2) In the event the interim school board decides to adopt any policy or policies different from those proposed by the interim personnel policy committee, the interim school board shall submit the proposals to the interim personnel policy committee at least seven (7) calendar days before being considered for adoption by the interim school board.

(3) The chair of the interim personnel policy committee or a committee member designated by the chair will have the opportunity to comment orally on any of the interim school board's proposals before their adoption.

(4) Any written policy of a new school district that affects the terms and conditions of a teacher's employment shall be considered a personnel policy.

(5) The new personnel policies shall not impair or diminish the existing contract rights of any teacher.

(f) In the event a school district with a personnel policy committee consolidates with another school that recognizes in its policies an organization representing the majority of the teachers of the school district for the purpose of negotiating personnel policies, salaries, and educational matters of mutual concern pursuant to § 6-17-202, each teacher in the school district with the personnel policy committee shall have the right in his or her first year of employment with the new school district to elect to have his or her contract governed by the negotiated personnel policies of the new school district or to continue with the terms of his or her existing contract under the personnel policies of the school district by which he or she was employed the year before the consolidation.

History. Acts 2003, No. 1801, § 1.

6-17-210. Right to witness or representative.

An employee shall be entitled to and shall be offered the opportunity to have a witness or representative of the employee’s choice present during any disciplinary or grievance matter with any administrator.

History. Acts 2003, No. 869, § 1; 2005, No. 1017, § 1. substituted “An employee” for “A teacher” and “employee’s” for “teacher’s.”

Amendments. The 2005 amendment

RESEARCH REFERENCES

U. Ark. Little Rock L. Rev. Survey of Other School Employees, 26 U. Ark. Little Rock L. Rev. 377.
Legislation, 2003 Arkansas General Assembly, Education Law, Teachers and

6-17-211. Use of personal leave when administrator or school employee is absent from campus.

(a) As used in this section:

(1) “Personal leave” means absence for illness, annual leave, or other personal leave as defined by the personnel policies of a school district or an education service cooperative; and

(2) “School functions” means:

(A) Athletic or academic events related to a public school district; and

(B) Meetings and conferences related to education.

(b) Each school district and education service cooperative shall establish in its personnel policies guidelines requiring an administrator or an employee of a public school district to use personal leave or leave without pay when away from the school premises for reasons other than attendance at school functions that occur away from the school premises.

History. Acts 2007, No. 867, § 1.

SUBCHAPTER 3 — EMPLOYMENT AND ASSIGNMENT

SECTION.
6-17-301. Employment of certified personnel.
6-17-302. Public school principals — Qualifications and responsibilities.
6-17-303. Assignment and reassignment of teachers.
6-17-304. Employment of teacher obligated to another school district — Liability of hiring school district.

SECTION.
6-17-305. Student teachers.
6-17-306. Leaves of absence.
6-17-307. Interviewing expenses in particular regions.
6-17-308. Moving expenses in particular regions.
6-17-309. Certification — Waiver.
6-17-310. Office for the Purpose of Teacher Recruitment.

Effective Dates. Acts 1935, No. 34, Acts 1999, No. 1078, § 92: effective July 1, 2000.
§ 2: Effective on passage.

RESEARCH REFERENCES

Am. Jur. 68 Am. Jur. 2d, Schools, § 122 et seq. **C.J.S.** 78 C.J.S., Schools, §§ 146-148 and § 198 et seq.

6-17-301. Employment of certified personnel.

(a) Except as prohibited under subsections (c) and (d) of this section, school boards of directors may employ superintendents, deputy superintendents, assistant superintendents, and high school principals, as well as department heads, coaches, teachers, and other certified personnel, by written contract for a period of time not more than three (3) years.

(b) The contracts may be renewed annually.

(c) Beginning on July 16, 2003, through July 1, 2004, notwithstanding any other provision of law except for currently binding contractual obligations or enforceable court-ordered mandates, no public school board of directors or the governing board of an education service cooperative or charter school may employ or extend the employment contract of any superintendent, assistant superintendent, school principal, department head, coach, teacher, or other certified or noncertified personnel for a period of time more than one (1) fiscal year without the prior written approval of the State Board of Education or the Commissioner of Education as allowed in emergency situations.

(d) No employment contract or extension to an employment contract entered on or after July 16, 2003, through July 1, 2004, may have a combined total increase in salaries, income, and benefits of greater than seven and one-half percent (7.5%) of the immediate previous existing contract for the same or substantially similar personnel position without the prior written approval of the state board, except for salary or benefit increases legislatively approved and mandated by the General Assembly, specifically including, but not limited to, pay increases under The Educator Compensation Act of 2001, §§ 6-17-2101 et seq. [Repealed], 6-5-307(a), and 6-20-412 or any salary increase based on an increment for experience or training published in a currently approved school district salary schedule.

History. Acts 1969, No. 145, § 1; 1969, No. 215, § 1; A.S.A. 1947, §§ 80-1235, 80-1236; Acts 2003, No. 1738, § 2; 2007, No. 617, § 9.

A.C.R.C. Notes. The Educator's Compensation Act of 2001, § 6-17-2101 et seq., was repealed by Acts 2005, No. 2121, § 21.

Publisher's Notes. Acts 1969, No. 145, § 2 and Acts 1969, No. 215, § 2 provided that nothing in this section should impair the obligations of existing contracts.

Amendments. The 2007 amendment substituted "education service cooperative" for "educational cooperative" in (c).

6-17-302. Public school principals — Qualifications and responsibilities.

(a) The school district board of directors shall employ through written contract public school principals who shall hold valid supervisory or administrative certificates and who shall supervise the operation and management of the school and property as the board of directors shall determine necessary.

(b) The principal shall assume administrative responsibility and instructional leadership, under the supervision of the superintendent and in accordance with the legal rules and regulations of the board of directors, for the planning, management, operation, and evaluation of the educational program of the attendance area to which he or she is assigned.

(c) The principal shall submit recommendations to the superintendent regarding the appointment, assignment, promotion, transfer, and dismissal of all personnel assigned to the attendance area.

(d) The principal shall perform such other duties as may be assigned by the superintendent pursuant to the legal rules and regulations of the board of directors.

History. Acts 1977, No. 255, § 1; A.S.A. 1947, § 80-1235.1.

CASE NOTES

ANALYSIS

Employment Status.
Liability.

Employment Status.

Principal did not have property interest in her status as principal based on this section or § 6-17-303. *Buchanan v. Little Rock Sch. Dist.*, 84 F.3d 1035 (8th Cir. 1996).

Liability.

It cannot be held as a matter of law that this section and §§ 6-13-620 and 6-17-919 absolutely bar an action against a school principal for damages allegedly caused by his actions in excess of his authority. *Hart v. Bridges*, 30 Ark. App. 262, 786 S.W.2d 589 (1990).

6-17-303. Assignment and reassignment of teachers.

School district boards of directors shall have authority to assign and reassign or transfer all teachers in schools within their jurisdiction upon the recommendation of the superintendent.

History. Acts 1991, No. 654, § 1.

Publisher's Notes. Former § 6-17-303, concerning the assignment and reassignment of teachers, was repealed by

Acts 1989, No. 950, § 1. The former section was derived from Acts 1959, No. 461, § 6; A.S.A. 1947, § 80-1234.

CASE NOTES

Employment Status.

Principal did not have property interest in her status as principal based on this

section or § 6-17-302. *Buchanan v. Little Rock Sch. Dist.*, 84 F.3d 1035 (8th Cir. 1996).

6-17-304. Employment of teacher obligated to another school district — Liability of hiring school district.

(a) Any school district which employs a teacher or administrator which the school district knows, or should have known, is contractually obligated to another school district shall be liable to the other school district for an amount of money equal to the salary in the violated contract exclusive of fringe benefits.

(b) Either school district may petition the Department of Education to satisfy the liability by transferring such amount to the entitled school district from funds which the department would have distributed to the liable school district.

(c) Upon receipt of such a petition, the department shall determine the amount of the liability and satisfy the same by such transfer.

(d) If a substantial question arises as to the existence of a contract, the State Board of Education may decline to assess the penalty.

History. Acts 1985, No. 154, § 1; A.S.A. 1947, § 80-1266.11.

RESEARCH REFERENCES

U. Ark. Little Rock L.J. Legislative Survey, Education, 8 U. Ark. Little Rock L.J. 569.

6-17-305. Student teachers.

(a) Any primary or secondary school which has been accredited by the Department of Education may be entitled to assignments of student teachers from institutions of higher learning in this state, irrespective of accreditation by any other agency, private or public.

(b) Any school district board of directors desiring to cooperate with any tax-supported institution of higher learning one (1) of whose functions is the training of teachers is authorized to enter into a contract with the board of trustees of the institution for the operation and maintenance of a public school, grades one through twelve (1-12) or any part thereof, located in the county, to be used for training school purposes by the institution.

(c) The school district boards of directors in this state are authorized to enter into contracts with colleges and universities for the use of student teachers in the public schools.

(d) The State Board of Education, by rules and regulations, may approve students authorized by the college to do student teaching.

(e) Student teachers in the public schools shall, while engaged in the performance of their student teaching duties, enjoy the same immunities provided by law for teachers in the public schools.

History. Acts 1935, No. 34, § 1; Pope's Dig., §§ 11663, 11778; Acts 1959, No. 218, § 1; 1973, No. 386, § 1; A.S.A. 1947, §§ 80-515, 80-1233, 80-1262; Acts 1999, No. 1078, § 59.

Effective Dates. Acts 1999, No. 1078, § 92: July 1, 2000.

6-17-306. Leaves of absence.

(a) All teachers, administrators, and noncertified personnel employed by any public school in this state who desire to take a leave of absence for the purpose of participating in military training programs or other official duties made available by the Arkansas National Guard or of the reserve branches of the armed forces and all teachers and administrators employed by a public school who desire to take a leave of absence for the purpose of participating in the civil defense and public health training programs made available by the United States Public Health Service shall be entitled to such a leave of absence for a period of fifteen (15) days, plus necessary travel time, in any fiscal year. To the extent that this leave is not used in a fiscal year, it will accumulate for use in the succeeding fiscal year until it totals fifteen (15) days at the beginning of a fiscal year.

(b)(1) Whenever any teacher, administrator, or noncertified employee is granted a leave of absence under the provisions of this section, he or she shall be entitled to his or her regular salary during the time he or she is away from his or her duties during such leave of absence.

(2) The teacher or administrator will be responsible for paying for the cost of any substitute employed in the teacher's or administrator's absence.

(3) Such leave of absence shall be in addition to the regular vacation time allowed the employee.

(c)(1) Teachers, administrators, and noncertified personnel called to duty in emergency situations by the Governor or by the President shall be granted leave with pay not to exceed thirty (30) working days, after which leave without pay will be granted. This leave shall be granted in addition to all other leave to which the teacher, administrator, or noncertified person shall be entitled.

(2) "Emergency situations" shall have the same meaning as it is defined in § 21-4-212(e).

(d)(1) During a leave of absence, teachers, administrators, and noncertified personnel shall be entitled to preserve all seniority rights, efficiency or performance ratings, promotional status, retirement privileges, life and disability insurance benefits, and any other rights, privileges, and benefits to which they have become entitled.

(2) The period of military service shall, for purposes of computations to determine whether such persons may be entitled to retirement under the laws of the State of Arkansas, be deemed continuous service, and

the teacher, administrator, or noncertified employee shall not be required to make contributions to any retirement fund.

(3) The school district shall continue to contribute its portion of any life and disability insurance premiums during the leave of absence on behalf of the teacher, administrator, or noncertified employee, if requested, so that continuous coverage may be maintained.

(e) For the purpose of this section, "fiscal year" shall be the fiscal year now established for the United States Government.

(f) Whenever any teacher, administrator, or noncertified person employed by any public school in this state is granted military leave for a period of fifteen (15) days per calendar year or fiscal year under the provisions of this section, the military leave will accumulate for use in succeeding calendar years or fiscal years until it totals fifteen (15) days at the beginning of the calendar year or fiscal year, for a maximum number of military leave days available in any one (1) calendar year or fiscal year to be thirty (30) days.

History. Acts 1989, No. 724, § 1; 1991, § 1, is also codified as §§ 21-4-102(e) and No. 673, § 1; 1991, No. 956, § 1. 21-4-212(g).

Publisher's Notes. Acts 1991, No. 956,

6-17-307. Interviewing expenses in particular regions.

The school board of directors of any school district situated within the Delta or within a geographical area of the state where there exists a critical shortage of teachers as designated by the State Board of Education may reimburse any person who interviews for employment as a licensed teacher with the school district for the mileage and other actual expenses incurred by the person in the course of travel to and from the interview.

History. Acts 2001, No. 1388, § 1.

6-17-308. Moving expenses in particular regions.

(a) The State Board of Education shall prescribe rules and regulations that allow for reimbursement to state-licensed teachers for the expense of moving when the employment necessitates the relocation of the teacher to a different geographical area from that in which the teacher resided before entering into a contract.

(b)(1) The expense reimbursement shall be allowed for both in-state and out-of-state teachers who enter into a contract for employment in a school district situated in the Delta or within a geographical area of the state where there exists a critical shortage of teachers.

(2) The region that is included in the Delta and the geographical area of the state where there exists a critical shortage of teachers shall be designated by the state board.

(c) In order to be eligible for the reimbursement, the teacher must apply to the local school district, and the school district must obtain the

prior approval from the Department of Higher Education for reimbursement before the relocation occurs.

(d)(1) If the reimbursement is approved, the department shall provide funds to the school district to reimburse the teacher an amount not to exceed one thousand dollars (\$1,000) for the documented actual expenses incurred in the course of relocating.

(2) Allowable expenses shall include:

(A) The expense of any professional moving company or persons employed to assist with the move;

(B) Rented moving vehicles or equipment;

(C) Mileage in the amount authorized for state employees if the teacher used a personal vehicle or vehicles for the move;

(D) Meals; and

(E) Other expenses associated with the relocation in accordance with the department's established rules and regulations.

(e) No teacher may be reimbursed for moving expenses under this section on more than one (1) occasion.

(f)(1) Nothing in this section shall be construed to require the actual residence to which the teacher relocates to be within the boundaries of the school district that has executed a contract for employment with the teacher or within the boundaries of the area designated by the state board as the Delta or a critical teacher shortage area in order for the teacher to be eligible for reimbursement for moving expenses.

(2) Teachers must relocate within the boundaries of the State of Arkansas.

(g) The provisions of this section shall be contingent on the availability of funding for the purpose of reimbursing teachers for interviewing and moving expenses under the terms of this section.

History. Acts 2001, No. 1388, § 2.

6-17-309. Certification — Waiver.

(a)(1) No class of students shall be under the instruction of a teacher who is not licensed to teach the grade level or subject matter of the class for more than thirty (30) consecutive school days in the same class during a school year.

(2) This provision shall not apply to:

(A) Nondegreed vocational-technical teachers;

(B) Those persons approved by the Department of Education to teach the grade level or subject matter of the class in the Department of Education's distance learning program;

(C) Those persons teaching concurrent credit courses or advanced placement courses who:

(i) Are employed by a postsecondary institution;

(ii) Meet the qualification requirements of that institution or the Department of Workforce Education; and

(iii) Are teaching in a course in which credit is offered by an institution of higher education or a technical institute;

(D) Licensed teachers teaching in the following settings:

- (i) An alternative learning environment;
- (ii) A juvenile detention facility;
- (iii) A residential and day alcohol, drug, and psychiatric facility program;
- (iv) An emergency youth shelter;
- (v) A facility of the Division of Youth Services of the Department of Human Services; or
- (vi) A facility of the Division of Developmental Disabilities Services of the Department of Human Services; and

(E) A licensed special education teacher teaching two (2) or more core academic subjects exclusively to children with disabilities.

(b)(1) If this requirement imposes an undue hardship on a school district, the school district may apply to the State Board of Education for a waiver.

(2) The state board shall develop rules and regulations for granting a waiver.

(3) Any school district that obtains a waiver shall send written notice of the assignment to the parent or guardian of each student in the classroom no later than the thirtieth school day after the date of the assignment.

(4) The state board may waive or modify the requirement that an applicant seeking licensure as a special education teacher complete an additional performance-based program of study if the applicant:

(A) Is licensed in another state with a special education license or endorsement; and

(B) Has taught special education students for not less than five (5) years.

History. Acts 2001, No. 1623, § 1; 2005, No. 2151, § 16; 2007, No. 1007, § 1; 2007, No. 1573, § 22.

The 2007 amendment by No. 1007 added (b)(4).

Amendments. The 2005 amendment redesignated former (a)(2) as present (a)(2), (a)(2)(A), and (a)(2)(B); and added (a)(2)(C)-(a)(2)(E).

The 2007 amendment by No. 1573 substituted "licensed" for "certified" in (a)(1).

6-17-310. Office for the Purpose of Teacher Recruitment.

(a)(1) There is established within the Department of Education the Office for the Purpose of Teacher Recruitment for ensuring that the children of our state are taught by highly qualified professionals.

(2) The office may serve as an interagency center focused on teacher recruitment.

(b) The office may have the following duties to:

(1) Develop, disseminate, and distribute written materials and video productions on the importance of teaching as a profession, emphasizing the critical need for teachers in certain geographical areas of the state and the availability of financial scholarships to college students in exchange for service as a licensed teacher in the geographical critical-

need area as identified by the Department of Education to assist the Department of Higher Education;

(2) Encourage teachers' aides and paraprofessionals in the public schools to pursue a college education that will enable them to become licensed teachers and to inform all assistant teachers of the availability of financial scholarships to both full-time and part-time college students under the Arkansas Academic Challenge Scholarship Program;

(3) Actively recruit, both within the state and out of state, teachers to render service to the state as licensed teachers in a geographical area of the state or subject-matter area where there exists a critical shortage of teachers, as designated by the State Board of Education;

(4) Actively recruit, both within the state and out of state, nonpracticing licensed teachers to return to the teaching profession to render service as licensed teachers in a public school district in a geographical area of the state and a subject-matter area where there is a critical shortage of teachers as designated by the state board;

(5) Recruit retired teachers who are willing to teach either full time or part time in public school programs;

(6) Notify teachers of the availability of incentives, including, but not limited to, forgivable loans and scholarships for persons who render service to the state as licensed teachers in a geographical area of the state where there exists a critical shortage of teachers in a subject-matter area, as designated by the state board; and

(7) Develop a statewide database for tracking Arkansas's educator workforce to give the state the ability it currently lacks in tracking Arkansas's ongoing process toward increasing the number of well-prepared and highly-skilled teachers in high-poverty and high-priority schools or districts.

(c) The office may also provide leadership for the following initiatives to:

(1) Initiate and monitor high school programs for teacher recruitment;

(2) Initiate and monitor college-level programs for teacher recruitment;

(3)(A) Facilitate articulation agreements between two-year colleges and four-year higher education institutions to capitalize on the associates of arts candidates of two-year campuses for the purpose of recruiting candidates from underrepresented minorities.

(B) The Department of Higher Education may assist the office with the measure implemented under subdivision (c)(3)(A) of this section;

(4) Develop a plan to provide financial rewards to colleges and universities that prepare teachers and administrators from underrepresented minorities as well as teachers and administrators who teach in geographical areas of the state with a shortage of teachers, subject-matter areas with a shortage of teachers, or both;

(5) Provide additional scholarships for any targeted populations or geographical areas of the state needing potential teachers;

(6) Provide assistance to local school districts in identifying and locating specific teacher needs;

(7) Provide leadership and assistance to schools for developing Teachers of Tomorrow programs and future teacher clubs;

(8) Coordinate an annual teacher-recruitment conference;

(9) Promote Grow Your Own Teacher projects;

(10) Coordinate teacher recruitment activities with the Department of Higher Education;

(11) Develop programs to provide incentives to high-priority schools or districts to encourage changes in teaching and learning environments, to help prevent high-quality teachers from leaving for other schools, and to create the instructional environments that give all students the opportunity to achieve high academic standards;

(12) Develop programs to promote innovative partnerships between schools and health and social service agencies to ensure that students' noneducational needs are addressed through appropriate and effective mechanisms that do not become barriers to teaching and learning; and

(13) Develop programs to promote partnerships between teachers and education programs and grades prekindergarten through twelve (preK-12) school districts with emphasis on partnerships that prepare teachers and administrators to work in high-priority schools or districts.

(d) The Department of Education may develop a supplemental funding program to be known as the "High-Priority Teacher Recruitment Program" that:

(1) Provides financial rewards to colleges and universities that prepare teachers and administrators from underrepresented minorities, teachers and administrators who teach in high-priority schools or school districts, or both;

(2) Provides incentives to high-priority schools or districts to encourage changes in teaching and learning environments, to help prevent high-quality teachers from leaving for other schools, and to create the instructional environments that give all students the opportunity to achieve high academic standards;

(3) Funds innovative partnerships between schools and health and social service agencies to ensure that students' noneducational needs are addressed through appropriate and effective mechanisms that do not become barriers to teaching and learning; and

(4) Funds partnerships between teacher education programs and grades prekindergarten through twelve (preK-12) school districts with emphasis on partnerships that prepare teachers and administrators to work in high-priority schools or districts.

(e) For purposes of this section, a "high-priority school or district" means a school or school district with:

(1) Seventy-five percent (75%) or more of its students scoring below-proficient on fourth grade or eighth grade benchmark exams in the two (2) immediately preceding school years; or

(2) Unacceptably wide achievement gaps as determined by the Department of Education in conjunction with the Commission on Closing the Achievement Gap in Arkansas.

History. Acts 2003, No. 1745, § 1; 2003 (2nd Ex. Sess.), No. 100, § 1; 2005, No. 1962, § 11; 2007, No. 1573, § 57.

Amendments. The 2005 amendment substituted “the Office for the Purpose of

Teacher Recruitment” for “an office for the purpose of teacher recruitment” in (a)(1).

The 2007 amendment deleted former (f).

SUBCHAPTER 4 — CERTIFICATION GENERALLY

SECTION.

- 6-17-401. Teacher’s license requirement.
- 6-17-402. Rules and regulations.
- 6-17-403. Provisional certification for teachers trained and certified in other states.
- 6-17-404. Certain teachers and administrators licensed in adjoining state.
- 6-17-405. [Repealed.]
- 6-17-406. License revocation generally — Superintendents and supervisors.
- 6-17-407. License revocation — Falsifying attendance records — Investigating allegations of employee criminal misconduct.
- 6-17-408. [Repealed.]
- 6-17-409. Nontraditional licensure certification.
- 6-17-410. Teacher licensure — First-time applicant, renewal application, revocation, suspension, and probation.
- 6-17-411. Criminal records check as a condition for initial employment of certified personnel.

SECTION.

- 6-17-412. National Board for Professional Teaching Standards certification.
- 6-17-413. National Board for Professional Teaching Standards certification funding.
- 6-17-414. Criminal records check as a condition for initial employment of nonlicensed personnel.
- 6-17-415. Criminal records check for existing noncertified employees.
- 6-17-416. Criminal records check of employees of more than one school district.
- 6-17-417. Fingerprint or name check.
- 6-17-418. Teacher certification — Arkansas history requirement.
- 6-17-419. Expired license renewal requirements.
- 6-17-420. [Repealed.]
- 6-17-421. Criminal records check for fraudulent acts.
- 6-17-422. Professional Licensure Standards Board.
- 6-17-423. Professional development after retirement.

Preambles. Acts 2005, No. 1187 contained a preamble which read: “WHEREAS, certified speech-language pathologists provide important and legally required educational services to the children in Arkansas public schools who need specialized, individualized instruction to ensure that they can succeed in all core subject areas by improving phonemic awareness, vocabulary development, and reading comprehension in both preventative and remedial ways; and

“WHEREAS, certified speech-language pathologists provide students with individualized instruction in many areas pertaining to communication such as the areas of articulation, language skills,

fluency, and oral motor skills, such as feeding, swallowing, and augmentative communication; and

“WHEREAS, a speech-language pathologist who holds a Certificate of Clinical Competence in Speech-Language Pathology from the American Speech-Language-Hearing Association has earned a master’s degree, which includes medical-based training, completion of a clinical fellowship year, and has passed the specialty area of the National Teachers Examination; and

“WHEREAS, a certified speech-language pathologist has completed training that equals or exceeds that of a National Board for Professional Teaching Stan-

dards certified teacher, but a certified speech-language pathologist receives less compensation because of his or her exclusion from the National Board for Professional Teaching Standards incentive program; and

"WHEREAS, a speech-language pathologist who holds a Certificate of Clinical Competence in Speech-Language Pathology from the American Speech-Language-Hearing Association may bill Medicaid for services provided to Medicaid-qualified recipients,

"NOW therefore, ..."

Effective Dates. Acts 1931, No. 169, § 198: approved Mar. 25, 1931. Emergency clause provided: "It is found as a fact that the advent of the automobile, and the great improvement in the roads of the State have worked great changes in the system of administering the public schools of the State, and there is occasion to change the boundaries of many such districts before the end of the current school term, to relieve many of them of pressing indebtedness, to immediately administer to the health of many pupils in the schools, and to distribute State Funds to many of the schools in the near future to prevent some of them from having to close for the lack of funds; therefore, it is necessary that this act take immediate effect for the preservation of public peace, health, and safety; therefore, an emergency is declared and this act shall take effect and be in force immediately after its passage."

Acts 1953, No. 234, § 2: Mar. 6, 1953. Emergency clause provided: "It has been found and is declared by the General Assembly of Arkansas, that great difficulty exists in the procurement of qualified teachers and an undue burden is placed upon school officials and teachers by present requirements for filing of teacher's certificates, contracts and licenses, that enactment of this bill will alleviate this situation, and provide for more efficient administration of the school system. Therefore, an emergency is declared to exist, and this act being necessary for the preservation of the public peace, health and safety, shall take effect and be in force from the date of its approval."

Acts 1957, No. 370, § 3: July 1, 1957.

Acts 1983, No. 736, § 3: Mar. 23, 1983. Emergency clause provided: "It is hereby

found and determined by the General Assembly that the teachers' certification laws are unclear as to the authority of the Education Department to issue renewal and continuing teacher certificates, that in passing Act 162 of 1969, as amended, the General Assembly did not intend to remove the above mentioned authority of the Education Department and the Education Department will be issuing teacher certificates before this Act would normally be effective. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1985, No. 746, § 2: Apr. 3, 1985. Emergency clause provided: "It is hereby found and determined by the General Assembly that the statutory language repealed by this Act has been interpreted as requiring colleges and universities to withhold from certain students their earned degrees simply because the students did not take, prior to graduation, the National Teachers Examination or a similar examination designated by the State Board of Education; that such was not the intent of the legislation repealed by this Act and such interpretation has resulted in inequity and is fundamentally unfair and that this Act is immediately necessary to correct the inequity. Therefore, an emergency is hereby declared to exist and this Act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1985, No. 1082, § 3: emergency clause failed to pass.

Acts 1997, No. 787, § 9: Mar. 24, 1997. Emergency clause provided: "It is hereby found and determined by the General Assembly that the Arkansas Code does not now require Arkansas history to be taught in the public schools in this state; that Arkansas history is not being taught in all public schools in this state; that such failure must be addressed as soon as possible; that this act establishes the mechanism to ensure that Arkansas history is taught in each public school in this state and that this act should go into effect immediately in order that it might be implemented in the 1997-98 school year. Therefore an emergency is declared to exist and this act being immediately nec-

essary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 1997, No. 1272, § 6: Apr. 9, 1997. Emergency clause provided: "It is found and determined by the General Assembly that in some instances the results of criminal records checks conducted by the Federal Bureau of Investigation on applicants for licensure by the State Board of Education are not received in a timely manner by the Department of Education; that under existing state law such applicants cannot continue in employment with local school districts, thereby creating hardship for school children, the school districts, and the employees and that the immediate implementation of this act is necessary to alleviate such hardship in the current school year. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 1997, No. 1313, § 9: Apr. 10, 1997. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that Arkansas public school students and their parents or guardians should be secure in the knowledge that certified personnel employed by the local school district do not have criminal records and are not a potential threat to the safety of the students; and that an increasing number of incidents are occurring where certified personnel employed by local school districts are abusing students entrusted into the care of the school district; and that in some cases these incidents could have been avoided had the personnel been sub-

jected to a criminal records check. It is further found and determined that, in some instances, allegations of employee criminal misconduct involving students are not being investigated by those persons charged with administration of local school districts. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 1997, No. 1314, § 7: Apr. 10, 1997. Emergency clause provided: "It is found and determined by the Eighty-First General Assembly that Arkansas public school students and their parents or guardians should be confident that any person who is newly employed in a noncertified position by the local school district or education service cooperative does not have a criminal record and is not a potential threat to the safety of children; and that an increasing number of incidents are occurring where persons newly hired by local school districts or education service cooperatives are sexually, physically, or emotionally abusing students entrusted into their care; and that in some cases these incidents could have been avoided had the new employees been subjected to a criminal records check. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health, and safety, shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 1999, No. 1078, § 92: effective July 1, 2000.

Acts 2003, No. 42, § 3: Feb. 3, 2003. Emergency clause provided: "It is found and determined by the General Assembly

of the State of Arkansas that consolidated school districts are currently required to conduct background checks on personnel employed by existing school districts which have already conducted the background checks; that additional background checks for existing employees are unnecessarily duplicative; that schools consolidating in July of 2003 will unnecessarily expend funds and personnel resources conducting background checks if a waiver is not granted prior to the consolidation dates. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2003, No. 754, § 2: Mar. 27, 2003. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the state is experiencing a critical shortage of teachers; that recruiting teachers from out of state will help eliminate some of the shortage; and that this act is immediately necessary because the teachers seeking licensure under this act need to be licensed in Arkansas before the start of the 2003-2004 school year, and the State Board of Education needs sufficient time to implement a procedure to license teachers from other states. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2003 (2nd Ex. Sess.), No. 82, § 2: Feb. 6, 2004. Emergency clause provided: "It is found and determined by the General Assembly that fiscal integrity and the protection of the public funds is an important responsibility of government, that

funds of some school districts have been misappropriated by employees because of the lack of requirements for background checks for fraudulent or dishonest acts, that corrective action must be taken to prevent further losses in funds and in public trust. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2003 (2nd Ex. Sess.), No. 103, § 2: Feb. 10, 2004. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that existing restrictions on the employment of noncertified personnel in school districts are too restrictive; that this act provides more flexibility in hiring; and that this act is immediately necessary to assist school districts. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2005, No. 1187, § 2: July 1, 2005. Emergency clause provided: "There is a need to ensure the retention and hiring of highly qualified, certified speech-language pathologists in the public schools. Therefore, it is necessary to implement the provisions of this law effective the beginning of the 2005-2006 school year since some certified speech-language pathologists' contracts begin soon after the beginning of this school year, and without an emergency clause, the law may not go into effect until those contracts are underway. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2005."

RESEARCH REFERENCES

Am. Jur. 68 Am. Jur. 2d, Schools, § 132 et seq. **C.J.S.** 78 C.J.S., Schools, § 159 et seq.

6-17-401. Teacher's license requirement.

(a) Except as permitted under § 6-17-309 and § 6-17-2601 et seq., no teacher shall be employed in any public school of the state who is not licensed to teach in the State of Arkansas by a license issued by the State Board of Education.

(b) Any person who shall teach in a public school in this state shall only be entitled to receive any compensation from the school funds for such services if the person has:

- (1) A valid license issued by the state board; or
- (2) Other documentation from the Office of Professional Licensure of the Department of Education authorizing employment as a teacher under the conditions set forth by the Department of Education in the documentation.

History. Acts 1931, No. 169, § 164; Pope's Dig., § 11606; A.S.A. 1947, § 80-1209; Acts 1993, No. 294, § 11; 1999, No. 1078, § 60; 2005, No. 2151, § 1; 2007, No. 169, § 2; 2007, No. 710, § 2.

A.C.R.C. Notes. Acts 2007, No. 710, § 6, provided:

"Destruction of records.

"(a) On or before December 31, 2007, each county clerk in this state shall destroy each teacher contract, teaching certificate, and teaching license filed in the county clerk's office pursuant to §§ 6-13-620, 6-17-401, and 6-17-408.

"(b) The teacher contracts, teaching certificates, and teaching licenses shall be destroyed in a manner that will protect the confidentiality of personally identifiable information including the name, resi-

dence address, and social security number of the teacher who is the subject of the contract, teaching certificate, or teaching license."

Amendments. The 2005 amendment inserted "Except as permitted under § 6-17-309" at the beginning of (a).

The 2007 amendment by No. 169 inserted "and § 6-17-2601 et seq." in (a).

The 2007 amendment by No. 710 deleted former (b); redesignated former (c) as present (b); in (b), substituted "state shall only be" for "state without a legal certificate of qualification to teach shall not be" and added "if the person has"; and added (b)(1) and (b)(2) and made a related change.

Effective Dates. Acts 1999, No. 1078, § 92: July 1, 2000.

CASE NOTES

ANALYSIS

Evidence.

Time for Obtaining License.

Evidence.

Teachers under contract entered into by a school district which was subsequently consolidated with another, were held qualified to teach in consolidated district pursuant to this section. Chidester Sch.

Dist. v. Faulkner, 218 Ark. 239, 235 S.W.2d 870 (1951).

Time for Obtaining License.

It was not necessary that teacher have a license to teach upon the date of the execution of the contract to teach if the school was not to commence until thereafter, and contract entered into was valid subject to be voided if the teacher failed to provide himself with a license before the

date of the commencement of school. Lee v. Mitchell, 108 Ark. 1, 156 S.W. 450 (1913) (decision under prior law).

Cited: Harris v. Alzheimer Unified Sch. Dist., 94 Ark. App. 152, 227 S.W.3d 437 (2006).

6-17-402. Rules and regulations.

(a) As used in this section, “certified teaching license” means the license of a licensed classroom teacher, an administrator, a guidance counselor, or a librarian issued by the State Board of Education.

(b)(1) The State Board of Education shall promulgate rules and regulations for the issuance, licensure, relicensure, and continuance of licensure of teachers in the public schools of this state.

(2)(A) In addition to other requirements, any person applying for initial licensure as a teacher or administrator in the public schools or a licensed teacher or administrator applying for a license in an additional area shall take and complete a test recognized by the National Council for Accreditation of Teacher Education and approved by the State Board of Education and submit the scores to the Department of Education.

(B) No applicant for initial licensure or licensure in an additional area shall receive a license after July 1, 2007, unless the applicant scores at or above the minimum level set by the State Board of Education that is consistent with the recommendations of the Professional Licensure Standards Board.

(C) All colleges and universities in this state shall report the results of the examinations to the department upon request.

(c) The State Board of Education shall not delegate to any college or university any of the State Board of Education’s powers or duties pertaining to the issuance, licensure, relicensure, and continuance of licensure of teachers in public schools in this state.

(d) The State Board of Education shall waive the examination requirements under subsection (b) of this section for individuals applying for licensure in Arkansas who have a valid out-of-state teaching license and three (3) years’ documented teaching experience as required by the rules promulgated by the State Board of Education.

(e)(1)(A) The State Board of Education shall waive the requirement for professional development for a retired teacher who:

- (i) Maintains a valid license; and
- (ii) Reenters the educational setting prior to sixty-five (65) years of age due to a teacher shortage.

(B) “Educational setting” means the employment setting where the certified employee works, including without limitation:

- (i) A public or private school;
- (ii) An institution of higher education;
- (iii) An education service cooperative;
- (iv) The Department of Education;
- (v) An adult education setting; or
- (vi) Another agency or organization that employs licensed teachers for educational purposes.

(2) A retired teacher who receives a waiver under subdivision (e)(1) of this section shall participate in the staff development programs required by the school district where he or she is employed.

History. Acts 1979, No. 162, § 1; 1981, No. 814, § 1; 1983, No. 736, § 1; 1983 (Ex. Sess.), No. 5, § 1; 1985, No. 746, § 1; 1985, No. 1082, § 1; A.S.A. 1947, § 80-1201; Acts 1989, No. 414, § 1; 2003, No. 754, § 1; 2005, No. 2151, § 2; 2007, No. 169, § 3; 2007, No. 846, § 1.

Amendments. The 2005 amendment inserted “under § 6-17-601 et seq.” in (a)(2).

The 2007 amendment by No. 169 rewrote (e).

The 2007 amendment by No. 846 added present (a) and redesignated the remain-

ing subdivisions; substituted “State Board of Education” for “state board” or similar language throughout the section; in present (b), inserted “or administrator” twice in (2)(A), in (2)(B), inserted “after July 1, 2007” and substituted “State Board of Education that are consistent with the recommendations of the Professional Licensure Standards Board” for “board”; in present (d), substituted “(b)” for “(a)” and “rules” for “rules and regulations”; and deleted former (f).

6-17-403. Provisional certification for teachers trained and certified in other states.

(a) The State Board of Education is authorized to issue a one-year nonrenewable provisional certificate to any teacher who seeks Arkansas certification and is trained in and certified by a state other than Arkansas.

(b)(1) Any person who has not successfully completed the National Teacher’s Examination or a similar examination designated by the state board under § 6-17-601 et seq. and who has not previously held an Arkansas certificate but meets degree, course work, and experience requirements for a standard certificate and who otherwise qualifies to teach in the public schools of this state may receive a one-year nonrenewable provisional certificate and be employed by any public school district in this state for a period not to exceed one (1) year.

(2) Any school district that hires a teacher who has not successfully completed the examination shall not be penalized by the state board provided that the length of employment of the teacher while noncertified does not exceed one (1) year.

History. Acts 1979, No. 162, § 1; 1985, No. 1082, § 1; A.S.A. 1947, § 80-1201; Acts 1989, No. 307, § 1; 2005, No. 2151, § 3.

Effective Dates. Acts 1989, No. 307, § 2, provided that the act shall become

effective beginning with the 1989-90 school year.

Amendments. The 2005 amendment inserted “under § 6-17-601 et seq.” in (b)(1).

6-17-404. Certain teachers and administrators licensed in adjoining state.

(a) Any person who is licensed as a schoolteacher or administrator in an adjoining state, who serves as a teacher or administrator in any public school in this state located in a county having a population of at least forty-two thousand (42,000) but not more than forty-seven thou-

sand (47,000) according to the 1970 Federal Decennial Census and having an intermix of students from Arkansas and an adjoining state, and who is compensated for services in this state by an adjoining state or school district or districts in such adjoining state shall without further qualification be allowed to serve in such school in a capacity for which the person is qualified in the adjoining state without affecting the rating of the school.

(b) However, no such teacher or administrator shall receive a license issued by the State Board of Education until that person complies with the provisions of § 6-17-410.

History. Acts 1979, No. 209, § 1; A.S.A. 1947, § 80-1209.1; Acts 1995, No. 1310, § 3.

CASE NOTES

Constitutionality.

This section is not an unconstitutional local or special law since the statute is rationally related to Arkansas's interest in assisting one or more border school

districts to obtain teachers from adjoining states and thereby foster better education for all students. *Hall v. Tucker*, 336 Ark. 112, 983 S.W.2d 432 (1999).

6-17-405. [Repealed.]

Publisher's Notes. This section, concerning license revocation generally, was repealed by Acts 2001, No. 752, § 2. The section was derived from Acts 1931, No.

169, § 183; Pope's Dig., § 11625; A.S.A. 1947, § 80-1214; Acts 1989, No. 866, § 1; 1995, No. 1310, § 2; 1997, No. 1313, § 1; 1999, No. 1161, § 1.

6-17-406. License revocation generally — Superintendents and supervisors.

The State Board of Education may revoke the license of any superintendent or supervisor in any and every instance where the Director of the Department of Finance and Administration has found it necessary to proceed upon the bond of the superintendent or supervisor to recover funds wrongfully used. Revocation shall be mandatory in any and every instance where there is recovery on the bond.

History. Acts 1949, No. 289, § 1; A.S.A. 1947, § 80-1214.1.

§ 2, provided that, except as specifically provided in this section, this section was not to amend any existing law.

Publisher's Notes. Acts 1949, No. 289,

6-17-407. License revocation — Falsifying attendance records — Investigating allegations of employee criminal misconduct.

(a)(1) The State Board of Education is directed to revoke the license of any person in this state who knowingly falsifies any attendance records kept by him or her that are used in computing the average daily attendance or average daily membership of the school district in which

the person is employed, and the state board is directed to revoke the license of any superintendent of schools who knowingly permits or requires any person to falsify the attendance records.

(2) Any person or superintendent of schools whose license is revoked as provided in this subsection shall not thereafter be eligible to receive a license to teach in this state.

(b)(1)(A) The superintendent of schools shall be responsible for investigating and documenting allegations of criminal misconduct as delineated in §§ 6-17-410 and 6-17-414 by a school district employee and involving a student or students.

(B) The investigation may be conducted by the superintendent's designee.

(2) If the superintendent finds no basis for allegations of criminal misconduct, he or she shall not be required to place any documents relative to such allegations or the subsequent investigation in the employee's personnel file.

(3) Results of any such investigation shall not be available for examination except by the employee or his or her duly authorized representative or the office of the prosecuting attorney.

(4) Failure to comply with the requirements of this subsection shall be a Class C misdemeanor.

History. Acts 1957, No. 370, § 1; A.S.A. 1947, § 80-1228; Acts 1997, No. 1313, § 4; 2005, No. 2151, § 4.

Amendments. The 2005 amendment inserted "or her" in (a)(1) and (b)(3); and

substituted "§§ 6-17-410 and 6-17-414" for "§ 6-17-405" in (b)(1)(A).

Cross References. Revocation of license for failure to keep attendance records, § 6-18-217.

CASE NOTES

Purpose.

The purpose of this section is not to prevent superintendents from directing teachers to falsify records, but to prevent anyone in authority, including the superintendent, from falsifying records to the state; thus the State Board of Education is authorized to revoke a superintendent's

certificate not only when he permits or requires a teacher to falsify an attendance record, but also when he falsifies the record himself. *Balentine v. Arkansas State Bd. of Educ.*, 285 Ark. 1, 684 S.W.2d 246 (1985).

Cited: *Harber v. Rhodes*, 248 Ark. 1188, 455 S.W.2d 926 (1970).

6-17-408. [Repealed.]

Publisher's Notes. This section, concerning failure to file teacher's license; defense, was repealed by Acts 2007, No. 710, § 3. The section was derived from Acts 1953, No. 234, § 1; A.S.A. 1947, § 80-1227; Acts 1993, No. 294, § 11; 1999, No. 1078, § 61.

A.C.R.C. Notes. Acts 2007, No. 710, § 6, provided:

"Destruction of records.

"(a) On or before December 31, 2007,

each county clerk in this state shall destroy each teacher contract, teaching certificate, and teaching license filed in the county clerk's office pursuant to §§ 6-13-620, 6-17-401, and 6-17-408.

"(b) The teacher contracts, teaching certificates, and teaching licenses shall be destroyed in a manner that will protect the confidentiality of personally identifiable information including the name, residence address, and social security number

of the teacher who is the subject of the contract, teaching certificate, or teaching license.”

6-17-409. Nontraditional licensure certification.

(a) The Department of Education may offer and operate a nontraditional licensure program.

(b) The department is hereby authorized to provide grants of financial assistance to entities that train individuals seeking to obtain nontraditional licensure certification through the nontraditional certification process administered by the department. The department shall pay the grants from funds appropriated by the General Assembly to the department for such purpose.

(c) The department is hereby authorized to promulgate rules and regulations to determine eligibility for and amount of awards of the grants concerning the operation of the nontraditional licensure program authorized by this section and for such other purposes as may be necessary in carrying out the intent of this section.

(d) If the department requires an applicant for nontraditional licensure certification to complete one (1) or more additional college-level courses and the applicant has obtained a bachelor's degree, the required course or courses shall meet one (1) or more of the following conditions:

(1)(A) Each course shall be offered at every state-supported, two-year institution of higher education.

(B) If more than one (1) course is required, all courses shall be offered in a one-semester block; or

(2) Each course shall be available as an online course, a traditional face-to-face course, or a hybrid course that is part online instruction and part face-to-face instruction, as approved by the department.

History. Acts 1991, No. 308, § 1; 2005, No. 2151, § 17; 2007, No. 704, § 1.

Amendments. The 2005 amendment added present (a); redesignated former (a) and (b) as present (b) and (c); rewrote

present (b); and inserted “and amount of” and “concerning the operation of the nontraditional licensure program” in (c).

The 2007 amendment added (d).

6-17-410. Teacher licensure — First-time applicant, renewal application, revocation, suspension, and probation.

(a)(1)(A)(i) Each first-time applicant for a license issued by the State Board of Education and each applicant for his or her first license renewal on or after July 1, 1997, shall be required to apply to the Identification Bureau of the Department of Arkansas State Police for a statewide and nationwide criminal records check, to be conducted by the Department of Arkansas State Police and the Federal Bureau of Investigation.

(ii) The check shall conform to the applicable federal standards and shall include the taking of fingerprints.

(iii) The Identification Bureau of the Department of Arkansas State Police may maintain these fingerprints in the automated fingerprint identification system.

(iv) The Federal Bureau of Investigation shall promptly destroy the fingerprint card of the applicant.

(B) The applicant shall sign a release of information to the Department of Education and shall be responsible for the payment of any fee associated with the criminal records check.

(C)(i) The Department of Education shall be responsible for the payment of any fee associated with the criminal records check at the time of license renewal for employees of Arkansas public school districts, employees of other public education institutions located in Arkansas, and employees of the Department of Education.

(ii) Funding for the fees shall come from the Public School Fund.

(2) Upon completion of the criminal records check, the Identification Bureau of the Department of Arkansas State Police shall forward all releasable information obtained concerning the applicant to the Department of Education.

(b)(1) The state board is authorized to issue a six-month nonrenewable letter of provisional eligibility for licensure to a first-time applicant pending the results of the criminal records check. However, the Commissioner of Education may extend the period of provisional eligibility to the end of that contract year if:

(A) The applicant is employed by a local school district; and

(B) The results of the criminal records check are delayed.

(2) Upon receipt of information from the Identification Bureau of the Department of Arkansas State Police that the person holding a letter of provisional eligibility for licensure has pleaded guilty or nolo contendere to or has been found guilty of any offense listed in subsection (c) of this section, the state board shall immediately revoke the provisional eligibility.

(c) The state board shall not issue a first-time license nor renew an existing license and shall revoke any existing license not up for renewal of any person who has pleaded guilty or nolo contendere to or has been found guilty of any of the following offenses by any court in the State of Arkansas or of any similar offense by a court in another state or of any similar offense by a federal court:

(1) Capital murder as prohibited in § 5-10-101;

(2) Murder in the first degree as prohibited in § 5-10-102 and murder in the second degree as prohibited in § 5-10-103;

(3) Manslaughter as prohibited in § 5-10-104;

(4) Battery in the first degree as prohibited in § 5-13-201 and battery in the second degree as prohibited in § 5-13-202;

(5) Aggravated assault as prohibited in § 5-13-204;

(6) Terroristic threatening in the first degree as prohibited in § 5-13-301;

(7) Kidnapping as prohibited in § 5-11-102;

(8) Rape as prohibited in § 5-14-103;

(9) Sexual assault in the first degree, second degree, third degree, and fourth degree as prohibited in §§ 5-14-124 — 5-14-127;

(10) Incest as prohibited in § 5-26-202;

(11) Engaging children in sexually explicit conduct for use in visual or print media, transportation of minors for prohibited sexual conduct, employing or consenting to the use of a child in a sexual performance, or producing, directing, or promoting a sexual performance by a child as prohibited in §§ 5-27-303, 5-27-305, 5-27-402, and 5-27-403;

(12) Distribution to minors as prohibited in § 5-64-406;

(13) Any felony in violation of the Uniform Controlled Substances Act, § 5-64-101 et seq.;

(14) Sexual indecency with a child as prohibited in § 5-14-110;

(15) Endangering the welfare of a minor in the first degree as prohibited in § 5-27-205;

(16) Pandering or possessing visual or print medium depicting sexually explicit conduct involving a child as prohibited by § 5-27-304;

(17) False imprisonment in the first degree as prohibited in § 5-11-103;

(18) Permanent detention or restraint as prohibited in § 5-11-106;

(19) Permitting abuse of a child as prohibited in § 5-27-221(a);

(20) Negligent homicide as prohibited by § 5-10-105(a);

(21) Assault in the first degree as prohibited by § 5-13-205;

(22) Coercion as prohibited by § 5-13-208;

(23) Public sexual indecency as prohibited by § 5-14-111;

(24) Indecent exposure as prohibited by § 5-14-112;

(25) Endangering the welfare of a minor in the second degree as prohibited by § 5-27-206;

(26) Criminal attempt, criminal solicitation, or criminal conspiracy as prohibited in §§ 5-3-201, 5-3-202, 5-3-301, and 5-3-401, to commit any of the offenses listed in this subsection;

(27) Computer child pornography as prohibited in § 5-27-603;

(28) Computer exploitation of a child in the first degree as prohibited in § 5-27-605;

(29) Felony theft as prohibited in §§ 5-36-103 — 5-36-106, and 5-36-202;

(30) Robbery as prohibited by §§ 5-12-102 and 5-12-103;

(31) Breaking or entering as prohibited by § 5-39-202;

(32) Burglary as prohibited by § 5-39-201;

(33) Forgery as prohibited by § 5-37-201; and

(34) Any felony not listed in this subsection (c) and involving physical or sexual injury, mistreatment, or abuse against another.

(d)(1) For the purposes of this subsection (d):

(A) “Cause” means any of the following:

(i) Holding a license obtained by fraudulent means;

(ii) Revocation of a license in another state;

(iii) Intentionally compromising the validity or security of any student test or testing program administered by or required by the state board or the Department of Education;

(iv) Having the completed examination test score of any testing program required by the state board for teacher licensure declared invalid by the testing program company and so reported to the Department of Education by the testing company;

(v) Having an expunged or a pardoned conviction for any sexual or physical abuse offense committed against a child or any offense in subsection (c) of this section;

(vi) Failing to establish or maintain the necessary requirements and standards set forth in Arkansas law or state board rules and regulations for teacher licensure;

(vii) Knowingly submitting or providing false or misleading information or knowingly failing to submit or provide information requested or required by law to the Department of Education, the state board, or the Division of Legislative Audit; or

(viii) Knowingly falsifying or directing another to falsify any grade given to a student, whether the grade was given for an individual assignment or examination or at the conclusion of a regular grading period; and

(B) "Child" means a person under twenty-one (21) years of age or enrolled in the public schools of the State of Arkansas.

(2) For cause as stated in this subsection (d), the state board is authorized to:

(A) Revoke a license permanently;

(B) Suspend a license for a terminable period of time or indefinitely; or

(C) Place a person on probationary status for a terminable period of time with the license to be revoked or suspended if the probationary period is not successfully completed.

(e)(1) Before taking an action under subsections (c) or (d) of this section, the state board shall provide a written notice of the reason for the action and shall afford the person against whom the action is being considered the opportunity to request a hearing.

(2) A written request for a hearing must be received by the state board no more than thirty (30) days after the notice of the denial, nonrenewal, or revocation of the license is received by the person who is the subject of the proposed action.

(3) Upon written notice that a revocation, suspension, or probation is being sought by the state board for a cause set forth, a person may:

(A) Decline to answer the notice, in which case a hearing shall be held before the state board to establish by a preponderance of the evidence that cause for the proposed action exists;

(B)(i) Contest the complaint and request a hearing in writing, in which case the person shall be given an evidentiary hearing before the state board if one is requested.

(ii) If the person requesting the hearing fails to appear at the hearing, the hearing shall proceed in the manner described in subdivision (e)(3)(A) of this section;

(C) Admit the allegations of fact and request a hearing before the state board in mitigation of any penalty that may be assessed; or

(D) Stipulate or reach a negotiated agreement, which must be approved by the state board.

(f)(1) The revocation provisions of subsection (c) of this section may be waived, or a license may be suspended or placed on probation by the state board upon request by:

- (A) The board of directors of a local school district;
- (B) An affected applicant for licensure; or
- (C) The person holding a license subject to revocation.

(2) Circumstances for which a waiver may be granted shall include, but not be limited to, the following:

- (A) The age at which the crime was committed;
- (B) The circumstances surrounding the crime;
- (C) The length of time since the crime;
- (D) Subsequent work history;
- (E) Employment references;
- (F) Character references; and

(G) Other evidence demonstrating that the applicant does not pose a threat to the health or safety of school children or school personnel.

(g)(1) The superintendent of each school district shall report to the state board the name of any person holding a license issued by the state board and currently employed or employed during the two (2) previous school years by the local school district who:

(A) Has pleaded guilty or nolo contendere to or has been found guilty of a felony or any misdemeanor listed in subsection (c) of this section;

(B) Holds a license obtained by fraudulent means;

(C) Has had a similar license revoked in another state;

(D) Has intentionally compromised the validity or security of any student test or testing program administered or required by the Department of Education;

(E) Has knowingly submitted falsified information or failed to submit information requested or required by law to the Department of Education, the state board, or the division; or

(F) Has failed to establish or maintain the necessary requirements and standards set forth in Arkansas law or Department of Education rules for teacher licensure.

(2) Failure of a superintendent to report information as required by this subsection may result in sanctions imposed by the state board.

(h)(1) Any information received by the Department of Education from the Identification Bureau of the Department of Arkansas State Police pursuant to subsection (a) of this section shall not be available for examination except by the affected applicant for licensure or his or her duly authorized representative, and no record, file, or document shall be removed from the custody of the Department of Education.

(2) Any information made available to the affected applicant for licensure or the person whose license is subject to revocation shall be information pertaining to that applicant only.

(3) Rights of privilege and confidentiality established under this section shall not extend to any document created for purposes other than this background check.

(i) The state board shall adopt the necessary rules to fully implement the provisions of this section.

History. Acts 1995, No. 1310, § 1; 1997, No. 1272, § 2; 1997, No. 1313, § 2; 1999, No. 226, § 1; 2001, No. 752, § 1; 2003, No. 1087, § 9; 2003, No. 1389, § 1; 2003, No. 1738, § 3; 2005, No. 2151, § 5; 2007, No. 1573, § 23.

Amendments. The 2005 amendment substituted "Identification Bureau of the Department of Arkansas State Police" for "Bureau of Identification and Information" in (a)(1)(A)(i), (a)(2), (b)(2), and (i)(1); inserted "Department of Arkansas State Police and the" in (a)(1)(A)(i); added (a)(1)(A)(iii) and (a)(1)(A)(iv); deleted "to the department of Arkansas State Police" following "responsible" in (a)(1)(B) and (a)(1)(C)(i); substituted "releasable information obtained concerning the applicant" for "information obtained concerning the applicant in the commission of any

offense listed in subsection (c) of this section" in (a)(2); deleted former (a)(3); rewrote (c)(13); inserted "or a license may be suspended or placed on probation" in (d)(1); rewrote (e)(2)(A), (e)(2)(B), and (e)(2)(I); added (e)(2)(J); rewrote (f)(1)(E); deleted former (g)(4); and deleted former (h)(1) and redesignated the remaining subdivisions accordingly.

The 2007 amendment, in (c), deleted "but only after an opportunity for a hearing before the board upon reasonable notice in writing" at the end of the introductory paragraph, and added (29) through (34); rewrote former (d) through (h) as present (d) through (g), and redesignated the following subdivisions accordingly; and substituted "rules" for "rules and regulations" in present (g)(1)(F) and (i).

RESEARCH REFERENCES

U. Ark. Little Rock L. Rev. Survey of Legislation, 2003 Arkansas General Assembly, Criminal Law, Computer Crimes, 26 U. Ark. Little Rock L. Rev. 361.

Survey of Legislation, 2003 Arkansas General Assembly, Education Law, Teachers and Other School Employees, 26 U. Ark. Little Rock L. Rev. 377.

6-17-411. Criminal records check as a condition for initial employment of certified personnel.

(a)(1)(A) Except as provided in subdivision (a)(1)(B) of this section, the board of directors of a local school district shall require as a condition for initial employment by the school district that any person holding a license issued by the State Board of Education and making application for employment authorize release to the Department of Education the results of statewide and nationwide criminal records checks by the Identification Bureau of the Department of Arkansas State Police, which conform to the applicable federal standards and include the taking of the applicant's fingerprints.

(B)(i) The board of directors of a local school district created by consolidation, annexation, or detachment may waive the requirements under subdivision (a)(1)(A) of this section for personnel who were employed by the affected district immediately prior to the annexation, consolidation, or detachment and who had a complete criminal background check conducted as a condition of the person's

most recent employment with the affected district as required under this section.

(ii) As used in this section, "affected district" means a school district that loses territory or students as a result of annexation, consolidation, or detachment.

(2) Unless the employing school district's board of directors has taken action to pay for the cost of criminal background checks required by this section, the employment applicant shall be responsible for the payment of any fee associated with the criminal records check.

(3) At the conclusion of the criminal records check required by this section, the Identification Bureau of the Department of Arkansas State Police may maintain the fingerprints in the automated fingerprint identification system.

(4)(A) Any information received by the Department of Education from the Identification Bureau of the Department of Arkansas State Police pursuant to this section shall not be available for examination except by the affected applicant for employment or his or her duly authorized representative, and no record, file, or document shall be removed from the custody of the Department of Education.

(B) Any information made available to the affected applicant for employment shall be information pertaining to that applicant only.

(C) Rights of privilege and confidentiality established under this section shall not extend to any document created for purposes other than this background check.

(5) The Department of Education shall promptly inform the board of directors of the local school district whether or not the affected applicant is eligible for employment as provided by subsection (b) of this section.

(b)(1) No person holding a license from the state board shall be eligible for employment by a local school district if the results of the criminal records check released to the Department of Education by the applicant reveal that the applicant has pleaded guilty or nolo contendere to or has been found guilty of any offense that will or may result in license revocation by the state board under § 6-17-410.

(2) However, the board of directors of a local school district is authorized to offer provisional employment to the affected applicant pending receipt of eligibility information from the Department of Education.

History. Acts 1997, No. 1313, § 3; 2003, No. 42, § 1; 2005, No. 2151, § 6.

Amendments. The 2005 amendment substituted "Identification Bureau of the Department of Arkansas State Police" for "Bureau of Identification and Information" in (a)(1)(A), (a)(3), and (a)(4)(A); deleted "to the Department of Arkansas

State Police" following "responsible" in (a)(2); substituted "may maintain the fingerprints in the Automated Fingerprint Identification System" for "shall promptly destroy the fingerprint card of the affected applicant" in (a)(3); and substituted "§ 6-17-410" for "§§ 6-17-405 and 6-17-410" in (b)(1).

6-17-412. National Board for Professional Teaching Standards certification.

(a) As used in this section and § 6-17-413:

(1) "Classroom teacher" means an individual who is required to hold a teaching license from the Department of Education and who is engaged directly in instruction with students in a classroom setting for more than seventy percent (70%) of the individual's contracted time;

(2) "National board" means the National Board for Professional Teaching Standards;

(3) "Starting bonus" means a one-time bonus given during the school year in which an individual first obtains national board certification; and

(4) "Yearly bonus" means a bonus that is given once every school year following the year of initial certification.

(b) The national board was established in 1987 as an independent nonprofit organization to establish high and rigorous standards for teachers, to develop and operate a national voluntary system to assess and certify teachers who meet these standards, and to advance related education reforms for the purpose of improving student learning in the United States. In order to apply for the national board certification process, the national board requires teachers to have three (3) years or more of teaching experience, to have graduated from an accredited college or university, and to possess a valid state teaching license. A teacher may become national board certified by successfully completing a year-long certification process in which the teacher must develop a portfolio of student work and videotapes of teaching and learning activities for national board review, participate in the national board assessment center simulation exercises, and successfully pass an examination testing content knowledge.

(c)(1) The State Board of Education is authorized to issue a standard Arkansas teaching certificate to any teacher, building-level principal, or building-level assistant principal trained in and certified by a state other than Arkansas who seeks Arkansas certification and who has received national board certification from the national board while teaching in a state other than Arkansas.

(2) Any applicant meeting this description seeking initial certification in Arkansas who seeks employment as an Arkansas teacher, building-level principal, or building-level assistant principal shall not have to comply with § 6-17-402 or § 6-17-403 but shall comply with § 6-17-410.

History. Acts 1997, No. 1225, § 1;
2001, No. 1060, § 1.

6-17-413. National Board for Professional Teaching Standards certification funding.

(a)(1)(A) The Department of Education shall pay the full amount of the participation fee of the National Board for Professional Teaching Standards and provide, if determined to be necessary by the department, substitute pay for a maximum of three (3) days of approved paid leave for teachers selected by the State Board of Education to participate in the program of the national board.

(B) A teacher shall have completed at least three (3) years of teaching in the Arkansas public school system before applying for the assistance under this section and § 6-17-412 and shall not have previously received state funding for participation in any certification area in the program of the national board.

(2)(A) The State Board of Education shall promulgate rules and regulations for the selection process of teacher participants in the program of the national board.

(B) The number of teacher participants each year will be determined by the amount of funding available for the program.

(3)(A) The department shall pay a starting incentive bonus of two thousand dollars (\$2,000) upon receiving the certification of the national board and a yearly incentive bonus of two thousand dollars (\$2,000) for every school year for the life of the certificate of the national board to any classroom teacher, building-level principal, or building-level assistant principal who:

(i) Is selected by the State Board of Education to participate in the program of the national board;

(ii) Successfully completes the certification process of the national board;

(iii) Receives certification of the national board; and

(iv) Is, at the time of receiving the bonus, employed full time as a classroom teacher, a building-level principal, or a building-level assistant principal in an Arkansas public school district.

(B) Any teacher certified by the national board who moves into the state and is employed full time as a classroom teacher, building-level principal, or building-level assistant principal in an Arkansas public school district shall be eligible for the yearly incentive bonus of two thousand dollars (\$2,000) for every school year the person is employed full time as a classroom teacher, building-level principal, or building-level assistant principal in a local public school district for the life of the certificate of the national board.

(C) The starting incentive bonus and the yearly incentive set forth in subdivision (a)(3)(A) and (B) of this section shall increase yearly as follows:

(i) The starting incentive bonus and the yearly incentive for 2003 shall be three thousand dollars (\$3,000);

(ii) The starting incentive bonus and the yearly incentive for 2004 shall be four thousand dollars (\$4,000); and

(iii) The starting incentive bonus and the yearly incentive for 2005 and each year thereafter shall be five thousand dollars (\$5,000).

(D) The increased incentive bonuses provided in this section shall not be retroactive.

(E) No person shall receive a starting bonus and a yearly incentive for the same school year.

(F) No person shall receive either a starting incentive bonus or a yearly incentive bonus, irrespective of the person's past participation in the certification of the national board, as either a teacher, a building-level principal, or a building-level assistant principal if the person:

(i) Leaves the full-time employment of an Arkansas public school district;

(ii) Becomes employed as a school district-level central office administrator;

(iii) Is employed by an Arkansas institution of higher education; or

(iv) Is employed by an education service cooperative and does not teach in a classroom with students.

(G) At the time that the national board establishes a certification of the national board for school administrators and an Arkansas school district-level central office administrator becomes certified by the national board, the school district-level central office will be eligible to receive incentive bonuses in the amount awarded to teachers certified by the national board for every year for the life of the administrator certificate of the national board.

(4) The State Board of Education is authorized to promulgate rules and regulations to establish a support program for teachers selected to participate in the program of the national board.

(b)(1) A teacher who receives state moneys for the participation fee of the national board but who does not complete the certification process within three (3) years after the teacher's entry into the certification program of the national board or who becomes certified by the national board but does not teach or serve as a building-level principal in the Arkansas public school system for two (2) continuous school years after receiving the certification by the national board shall repay the department the amount it contributed to the participation fee of the national board and the total amount it contributed to any yearly bonus.

(2) If the teacher, principal, or assistant principal leaves the employment of a public school district before the two (2) continuous years are completed and is employed by an Arkansas institution of higher education or employed by an education service cooperative and the teacher does not teach in a classroom with students, the teacher, principal, or assistant principal shall repay the department the amount it contributed to the participation fee of the national board and the total amount it contributed to any yearly salary bonus.

(3) The State Board of Education may suspend the Arkansas teacher's license of any person that fails, when required to do so, to repay moneys contributed by the department for the certification program of the national board.

(4) Repayment of moneys contributed by the department is not required if, due to the death or disability of the teacher or other extenuating circumstances as may be recognized by the State Board of Education, the teacher does not complete the certification process of the national board or does not teach in the Arkansas public school system for two (2) continuous school years after completing the certification process of the national board.

(c) Provisions of this section and § 6-17-412 shall apply only to the extent that funds are appropriated to the department to pay for these provisions.

(d)(1) As used in this subsection, "certified speech-language pathologist" means a speech-language pathologist who:

(A) Has a master's degree, which includes medical-based training;

(B) Has completed a one (1) year clinical fellowship;

(C) Has passed the specialty area of the National Teachers Examination; and

(D) Holds a Certificate of Clinical Competence in Speech-Language Pathology from the American Speech-Language-Hearing Association.

(2) Beginning with the 2005-2006 school year and each school year thereafter, the department shall pay a yearly incentive bonus of five thousand dollars (\$5,000) to a certified speech-language pathologist who:

(A) Holds an Arkansas teaching license in speech-language pathology;

(B) Is a full-time employee of an Arkansas education service cooperative or public school district as a speech-language pathologist at the time of receiving the bonus; and

(C) Is not considered a purchased service contractor but may be employed under a teacher contract subject to renewal under § 6-17-1506.

(3)(A)(i) Bonuses paid to a certified speech-language pathologist under this subsection shall be paid from the funds appropriated and available for bonuses to speech-language pathologists.

(ii) If sufficient funds are not available to pay the full amount of the bonus to each certified speech-language pathologist as provided under this section, the department may reduce the amount of the bonus for each qualified recipient proportionately as necessary to provide a bonus to each qualified speech-language pathologist in an equal amount.

(B) The cost and expenses related to training for or acquisition of the certificate shall not be funded through the program created under this section and § 6-17-412 but shall be the responsibility of the certified speech-language pathologist.

(4) Although a certified speech-language pathologist entitled to a bonus under this subsection will hold a valid Arkansas teaching license in speech-language pathology, references to "teacher" under this section shall mean a classroom teacher as defined under § 6-17-412(a)(1) who is in the program but not a certified speech-language pathologist.

History. Acts 1997, No. 1225, § 2; 1999, No. 58, § 1; 2001, No. 1060, § 2; 2003, No. 1803, § 1; 2005, No. 1187, § 1. **Amendments.** The 2005 amendment added (d).

6-17-414. Criminal records check as a condition for initial employment of nonlicensed personnel.

(a)(1)(A)(i) Except as provided in subdivision (a)(1)(C) of this section, the board of directors of a local school district or an education service cooperative shall require as a condition for initial employment or noncontinuous reemployment in a nonlicensed staff position any person making application to apply to the Identification Bureau of the Department of Arkansas State Police for statewide and nationwide criminal records checks, the latter to be conducted by the Federal Bureau of Investigation.

(ii) The checks shall conform to the applicable federal standards and shall include the taking of fingerprints.

(iii) The Identification Bureau of the Department of Arkansas State Police may maintain these fingerprints in the automated fingerprint identification system.

(iv) The Federal Bureau of Investigation shall promptly destroy the fingerprint card of the applicant.

(B) The person shall sign a release of information to the Department of Education. Unless the employing school district board of directors has taken action to pay for the cost of criminal background checks required by this section, the employment applicant shall be responsible for the payment of any fee associated with the criminal records checks.

(C)(i) The board of directors of a local school district created by consolidation, annexation, or detachment may waive the requirements under subdivisions (a)(1)(A) and (B) of this section for personnel who were employed by the affected district immediately prior to the annexation, consolidation, or detachment and who had complete criminal background checks conducted as a condition of the person's most recent employment with the affected district as required under this section.

(ii) As used in this section, "affected district" means a school district that loses territory or students as a result of annexation, consolidation, or detachment.

(2) Upon completion of the criminal records check, the Identification Bureau of the Department of Arkansas State Police shall forward all releasable information obtained concerning the person to the Department of Education, which shall promptly inform the board of directors of the local school district or education service cooperative whether or not the applicant is eligible for employment as provided by subsection (b) of this section.

(b) No person, including without limitation nonlicensed persons who provide services as a substitute teacher, shall be eligible for employment, whether initial employment, reemployment, or continued em-

ployment, by a local school district or education service cooperative in a nonlicensed staff position if that person has pleaded guilty or nolo contendere to or has been found guilty of any of the following offenses by any court in the State of Arkansas or of any similar offense by a court in another state or of any similar offense by a federal court:

- (1) Capital murder as prohibited in § 5-10-101;
- (2) Murder in the first degree as prohibited in § 5-10-102 and murder in the second degree as prohibited in § 5-10-103;
- (3) Manslaughter as prohibited in § 5-10-104;
- (4) Battery in the first degree as prohibited in § 5-13-201 and battery in the second degree as prohibited in § 5-13-202;
- (5) Aggravated assault as prohibited in § 5-13-204;
- (6) Terroristic threatening in the first degree as prohibited in § 5-13-301;
- (7) Kidnapping as prohibited in § 5-11-102;
- (8) Rape as prohibited in § 5-14-103;
- (9) Sexual assault in the first degree, second degree, third degree, and fourth degree, as prohibited in §§ 5-14-124 — 5-14-127;
- (10) Incest as prohibited in § 5-26-202;
- (11) Engaging children in sexually explicit conduct for use in visual or print media, transportation of minors for prohibited sexual conduct, employing or consenting to the use of a child in a sexual performance, or producing, directing, or promoting a sexual performance by a child as prohibited in §§ 5-27-303, 5-27-305, 5-27-402, and 5-27-403;
- (12) Distribution to minors as prohibited in § 5-64-406;
- (13) Any felony in violation of the Uniform Controlled Substances Act, § 5-64-101 et seq.;
- (14) Criminal attempt, criminal solicitation, or criminal conspiracy as prohibited in §§ 5-3-201, 5-3-202, 5-3-301, and 5-3-401, to commit any of the offenses listed in this subsection (b);
- (15) Sexual indecency with a child as prohibited in § 5-14-110;
- (16) Endangering the welfare of a minor in the first degree as prohibited in § 5-27-205;
- (17) Pandering or possessing visual or print medium depicting sexually explicit conduct involving a child as prohibited by § 5-27-304;
- (18) False imprisonment in the first degree as prohibited in § 5-11-103;
- (19) Permanent detention or restraint as prohibited in § 5-11-106;
- (20) Permitting abuse of a child as prohibited in § 5-27-221(a);
- (21) Negligent homicide as prohibited by § 5-10-105(a);
- (22) Assault in the first degree as prohibited by § 5-13-205;
- (23) Coercion as prohibited by § 5-13-208;
- (24) Public sexual indecency as prohibited by § 5-14-111;
- (25) Indecent exposure as prohibited by § 5-14-112;
- (26) Endangering the welfare of a minor in the second degree as prohibited by § 5-27-206;
- (27) Computer child pornography as prohibited in § 5-27-603;
- (28) Computer exploitation of a child in the first degree as prohibited in § 5-27-605;

(29) Felony theft as prohibited in §§ 5-36-103 — 5-36-106, and 5-36-203;

(30) Robbery as prohibited by §§ 5-12-102 and 5-12-103;

(31) Breaking or entering as prohibited by § 5-39-202;

(32) Burglary as prohibited by § 5-39-201;

(33) Forgery as prohibited by § 5-37-201; and

(34) Any felony not listed in this subsection (b) and involving physical or sexual injury, mistreatment, or abuse against another.

(c) However, the board of directors of a local school district or education service cooperative is authorized to offer provisional employment to an applicant pending receipt of eligibility information from the Department of Education.

(d)(1) Any information received by the Department of Education from the Identification Bureau of the Department of Arkansas State Police pursuant to this section shall not be available for examination except by the affected applicant for employment or his or her duly authorized representative, and no record, file, or document shall be removed from the custody of the Department of Education.

(2) Any information made available to the affected applicant for employment shall be information pertaining to that applicant only.

(3) Rights of privilege and confidentiality established under this section shall not extend to any document created for purposes other than this background check.

(e) The State Board of Education shall determine that an applicant for employment with a school district in a nonlicensed staff position is ineligible for employment if the applicant:

(1) Is required to pass an examination as a requirement of his or her position and the applicant's completed examination test score was declared invalid because of the applicant's improper conduct;

(2) Has an expunged or a pardoned conviction for any sexual or physical abuse offense committed against a child or any offense listed in subsection (b) of this section;

(3) Knowingly submits or provides false or misleading information or knowingly fails to submit or provide information requested or required by law to the Department of Education, the state board, or the Division of Legislative Audit; or

(4) Knowingly falsifies or directs another to falsify any grade given to a student, whether the grade was given for an individual assignment or examination or at the conclusion of a regular grading period.

(f)(1) The superintendent of each school district shall report to the state board the name of any person currently employed by the local school district who:

(A) Has pleaded guilty or nolo contendere to or has been found guilty of a felony or any misdemeanor listed in subsection (b) of this section;

(B) Has intentionally compromised the validity or security of any student test or testing program administered or required by the Department of Education; or

(C) Has knowingly submitted falsified information or failed to submit information requested or required by law to the Department of Education, the state board, or the division.

(2) The failure of a superintendent to report information as required by this subsection (f) may result in sanctions imposed by the state board.

History. Acts 1997, No. 1314, § 1; 2003, No. 42, § 2; 2003, No. 1087, § 10; 2003, No. 1387, § 1; 2003 (2nd Ex. Sess.), No. 103, § 1; 2005, No. 2151, § 7; 2007, No. 823, § 1; 2007, No. 1573, § 24.

Amendments. The 2005 amendment added (a)(1)(A)(iii) and (a)(1)(A)(iv); deleted “to the Department of Arkansas State Police” following “responsible” in (a)(1)(B); substituted “Identification Bureau of the Department of Arkansas State Police” for “Bureau of Identification and Information” in (a)(2) and present (d)(1); substituted “releasable information obtained concerning the person to the Department of Education” for “information obtained concerning the person in the commission of any offense listed in subsection (b) of this section to the department” in (a)(2); deleted former (a)(3); redesignated former (b)(1) as present (b) and former (b)(1)(A)-(b)(1)(BB) as present

(b)(1)-(b)(28); rewrote present (b)(13); redesignated former (b)(2) as present (c) and former (c)-(e) as present (d)-(f); and added (g).

The 2007 amendment by No. 823 inserted “including without limitation noncertified persons who provide services as a substitute teacher” and “whether initial employment, re-employment, or continued employment” in (b), and made related changes.

The 2007 amendment by No. 1573 substituted “or noncontinuous reemployment in a nonlicensed staff position” for “in a noncertified staff position” in (a)(1)(A)(i); in (b), substituted “nonlicensed” for “noncertified” in the introductory paragraph, and added (29) through (34); rewrote former (e) through (g) as present (e) and (f); and made related changes.

Meaning of “this act”. Acts 1997, No. 1314, codified as §§ 6-17-414 — 6-17-416.

RESEARCH REFERENCES

U. Ark. Little Rock L. Rev. Survey of Legislation, 2003 Arkansas General Assembly, Criminal Law, Computer Crimes, 26 U. Ark. Little Rock L. Rev. 361.

Survey of Legislation, 2003 Arkansas General Assembly, Education Law, Teachers and Other School Employees, 26 U. Ark. Little Rock L. Rev. 377.

6-17-415. Criminal records check for existing noncertified employees.

(a) It is the clear intent of the General Assembly to authorize each public school district at its discretion to require criminal background checks of existing noncertified employees in the same manner and subject to the same terms and conditions as set forth in this act for newly hired noncertified applicants.

(b) Any school district which by a vote of its local school board of directors requires criminal background checks for existing noncertified employees shall pay the full cost of the criminal background checks.

History. Acts 1997, No. 1314, § 2.

Meaning of “this act”. Acts 1997, No. 1314, codified as §§ 6-17-414 — 6-17-416.

6-17-416. Criminal records check of employees of more than one school district.

Employees, whether new or existing, who have a contract with or work for more than one (1) school district in one (1) year shall be required to have only one (1) criminal background check to satisfy the requirements of all employing school districts for that year.

History. Acts 1997, No. 1313, § 5; **Amendments.** The 2007 amendment reenacted the section without change.

6-17-417. Fingerprint or name check.

In any instance where a person must apply to the Identification Bureau of the Department of Arkansas State Police for a statewide and nationwide criminal records check as a condition for a license issued by the State Board of Education or as a condition for employment by a local school district and where a legible set of fingerprints, as determined by the Identification Bureau of the Department of Arkansas State Police, cannot be obtained after a minimum of three (3) attempts, the Department of Education or the local school district shall determine eligibility for licensure or employment based upon a name check by the Identification Bureau of the Department of Arkansas State Police and the Federal Bureau of Investigation.

History. Acts 1997, No. 1272, § 1; 2005, No. 2151, § 8. **Department of Arkansas State Police** for the first occurrence of "Bureau of Identification and Information."

Amendments. The 2005 amendment substituted "Identification Bureau of the

6-17-418. Teacher certification — Arkansas history requirement.

(a) Beginning July 1, 2001, no person shall be certified as a social studies teacher or as an elementary school teacher unless the person has successfully completed at least three (3) hours of college course work in Arkansas history.

(b) However, social studies teachers and elementary school teachers entering Arkansas from another state shall receive a one-year nonrenewable provisional certificate to teach in Arkansas schools as authorized by § 6-17-403.

(c) The provisions of this section are not applicable to recertification of teachers certified prior to March 24, 1997.

History. Acts 1997, No. 787, § 3.

6-17-419. Expired license renewal requirements.

(a)(1) Any person who held a valid teaching license prior to January 1, 1988, shall be allowed to renew that teaching license by meeting the general renewal requirements that are applicable to renewal for all other license holders and shall not be required to take a basic skills test,

to take the National Teacher's Examination, or to fulfill any other requirement that is not also required of all other teachers for license renewal.

(2) Any person who held a valid teaching license prior to January 1, 1988, shall be entitled to a provisional license by meeting the general requirements that are applicable to all other persons seeking a provisional license.

(b) This section does not allow a person whose license was revoked under § 6-17-410 to renew his or her license.

History. Acts 2003, No. 989, § 1; 2003, No. 1570, § 1; 2005, No. 2151, § 9.

Amendments. The 2005 amendment deleted "to comply with §§ 6-17-601 et

seq." following "shall not be required" in (a)(1); and substituted "§ 6-17-410" for "§§ 6-17-405 (repealed), 6-17-406 — 6-17-408" in (b).

6-17-420. [Repealed.]

Publisher's Notes. This section, concerning the Professional Education, Development, Licensure, and Assessment

Board, was repealed by Acts 2007, No. 846, § 2. The section was derived from Acts 2003, No. 1811, § 1.

6-17-421. Criminal records check for fraudulent acts.

(a) For purposes of this section:

(1) "Applicant" means an individual who is applying for initial employment as a fiscal officer of a school district;

(2) "Fiscal officer" means any certified or noncertified employee of a school district or education service cooperative who has any right, duty, or responsibility to access funds of a school district in excess of five thousand dollars (\$5,000), specifically including, but not limited to, superintendents, fiscal officers, and bookkeepers; and

(3) "Fraudulent act" means an act:

(A) Performed willfully and with the specific intent to deceive or cheat for the purpose of either causing some financial loss to another or bringing about some financial gain to the actor; and

(B) For which the actor has pleaded guilty or nolo contendere to or has been found guilty by any court in this state, by a court in another state, or by a federal court.

(b)(1)(A) Upon making application for employment in a position as a fiscal officer of a school district, the board of directors of a school district shall require the employment applicant to authorize release to the Department of Education the results of statewide and nationwide criminal records checks by the Identification Bureau of the Arkansas State Police.

(B) Unless the employing school district's board of directors has taken action to pay for the cost of criminal background checks required by this section, the employment applicant shall be responsible for the payment of any fee associated with the criminal records check.

(2)(A) The criminal background check shall conform to the applicable federal standards and include the taking of the employment applicant's or currently employed fiscal officer's fingerprints.

(B) At the conclusion of the criminal records check required by this section, the Identification Bureau of the Department of Arkansas State Police may maintain the fingerprints in the automated fingerprint identification system.

(3)(A) Any information received by the Department of Education from the Identification Bureau of the Department of Arkansas State Police pursuant to this section shall not be available for examination except by the affected employment applicant or fiscal officer or his or her duly authorized representative, and no record, file, or document shall be removed from the custody of the Department of Education.

(B) Any information made available to the affected employment applicant or fiscal officer shall be information pertaining to that applicant only.

(C) Rights of privilege and confidentiality established under this section shall not extend to any document created for purposes other than the background check.

(4) The Department of Education shall promptly inform the board of directors of the local school district whether or not the affected employment applicant is eligible for employment as provided in this subsection.

(c)(1) No person shall be eligible for employment as a fiscal officer by a local school district if the results of the criminal records check released to the Department of Education by the applicant reveals that the applicant has pleaded guilty or nolo contendere to or has been found guilty of a fraudulent act but only after an opportunity for a hearing before the State Board of Education upon reasonable notice in writing.

(2) However, the board of directors of a local school district is authorized to offer provisional employment to the affected applicant pending receipt of eligibility information from the Department of Education.

(d)(1) The superintendent of each school district shall report to the state board the name of any fiscal officer who is currently employed or was employed during the two (2) previous school years by the local school district who has pleaded guilty or nolo contendere to or has been found guilty of a fraudulent act.

(2) A superintendent who knowingly fails to report information as required by this subsection may be subject to sanctions imposed by the state board.

(e) A prosecuting attorney who prosecutes a person whom he or she knows is a school employee in a case in which the school employee has pleaded guilty or nolo contendere to or has been found guilty of a fraudulent act shall report the name of the employee and the nature of the crime to the school district in which the person is employed and to the state board.

(f) A fiscal officer who pleads guilty or nolo contendere to or has been found guilty of a fraudulent act shall be dismissed from employment

with the school district but only after an opportunity for a hearing before the state board upon reasonable notice in writing.

(g)(1) The state board shall be entitled to consider:

(A) The age of the fiscal officer at the time the criminal act occurred;

(B) The length of time since the conviction;

(C) Whether the fiscal officer has pleaded guilty or nolo contendere to or has been found guilty of any other criminal violation since the original conviction;

(D) Whether the original conviction was expunged or pardoned; and

(E) Any other relevant facts.

(2) The state board after conducting a hearing and issuing a decision in writing may determine not to prevent the employment or not to require the termination of employment of the fiscal officer as required in subsections (c) and (f) of this section.

History. Acts 2003 (2nd Ex. Sess.), No. 82, § 1; 2005, No. 2151, § 10.

Amendments. The 2005 amendment substituted “five thousand dollars (\$5,000)” for “two hundred dollars (\$200)” in (a)(2); rewrote (a)(3); substituted “Identification Bureau of the Arkansas State Police” for “Bureau of Identification and Information” in (b)(1)(A); deleted “to the

Department of Arkansas State Police” following “responsible” in (b)(1)(B); and substituted “may maintain the fingerprints in the Automated Fingerprint Identification System” for “shall promptly destroy the fingerprint card of the affected employment applicant or fiscal officer” in (b)(2)(B).

6-17-422. Professional Licensure Standards Board.

(a) There is established the Professional Licensure Standards Board.

(b) The Professional Licensure Standards Board shall consist of fifteen (15) members appointed by the State Board of Education as follows:

(1) The Commissioner of Education or his or her designee, who shall serve as a nonvoting member and chair;

(2)(A) Four (4) public school classroom teachers with a valid Arkansas teaching license who are recommended by the Arkansas Education Association.

(B) The four (4) public school classroom teachers shall represent the four (4) congressional districts in Arkansas and include classroom teachers who are licensed and teach at:

(i) A licensure level of prekindergarten through grade four (preK-4);

(ii) A licensure level of grades four through eight (4-8);

(iii) A licensure level of grades seven through twelve (7-12); and

(iv) Any licensure level to serve in one (1) at-large position;

(3) Four (4) persons with valid Arkansas teaching and administrator’s licenses who represent the four (4) congressional districts in Arkansas and are:

(A) Recommended by the Arkansas Association of Educational Administrators;

(B) One (1) of whom shall hold a P-8 building level leader license and serve as a middle-level building leader;

(C) Two (2) of whom shall be public school superintendents with valid Arkansas teaching and administrator's licenses recommended by the Arkansas Association of School Administrators; and

(D) One (1) public school administrator with a valid Arkansas teaching and administrator's license recommended by the Arkansas Association of School Personnel Administrators;

(4) One (1) nonvoting representative designated by the Department of Education from its offices of licensure and teacher quality recommended by the commissioner;

(5)(A) Three (3) deans of education from Arkansas institutions of higher education recommended by the Arkansas Association of Colleges for Teacher Education.

(B)(i) One (1) dean shall be from a private institution of higher education.

(ii) One (1) dean shall be from a public institution of higher education.

(iii) One (1) of whom shall have knowledge of licensure issues;

(6) One (1) coordinator of educational leadership recommended by the Arkansas Professors of Educational Administration; and

(7) One (1) curriculum program administrator recommended by the Arkansas Association of Supervision and Curriculum Development.

(c)(1) The State Board of Education shall consider all recommendations under subsection (b) of this section submitted to the secretary of the State Board of Education by June 30, 2007, for the initial board and by June 30 of each year in which the term of a Professional Licensure Standards Board member expires.

(2) If a recommendation for a person qualified to fill a position on the Professional Licensure Standards Board is not received by the deadline, the State Board of Education may appoint any qualified person to fill the position.

(d)(1)(A) Each member of the Professional Licensure Standards Board shall serve a term of three (3) years.

(B) The initial members shall draw lots for staggered terms.

(2) The State Board of Education shall appoint any qualified person to fill a position that is vacated before the expiration of a member's term.

(e)(1) The appointed members of the Professional Licensure Standards Board shall be residents of this state at the time of appointment and throughout their terms.

(2) The commissioner or his or her designee shall call an organizational meeting within twenty (20) calendar days after the State Board of Education has made all necessary appointments.

(f)(1) The Professional Licensure Standards Board shall meet at times and places the chair deems necessary, but no meetings shall be held outside of this state.

(2) A majority of the members of the Professional Licensure Standards Board shall constitute a quorum for the purpose of transacting business.

(3) All action of the Professional Licensure Standards Board shall be by a majority vote of the full membership of the Professional Licensure Standards Board.

(g)(1) Members of the Professional Licensure Standards Board shall serve without pay.

(2) Members of the Professional Licensure Standards Board may receive expense reimbursement in accordance with § 25-16-902, to be paid by the Department of Education to the extent money is available for that purpose.

(h) The Professional Licensure Standards Board shall:

(1) Develop and recommend for adoption to the State Board of Education minimum college level preparatory and grade point average requirements for all teachers applying for initial licensure or additional licensure after July 1, 2007, that shall include minimum requirements for:

(A) Course of study;

(B) Program approval;

(C) Range of approved hours; and

(D) In-class teaching internships or practice teaching hours;

(2)(A) With the assistance of the Department of Education and the Department of Higher Education, review the audits of the teacher education programs offered by all institutions of higher education in the state to determine if the institutions' teacher education programs and courses of study are aligned as necessary to allow graduates of the teacher education program to become licensed under this act and the rules set by the State Board of Education.

(B)(i)(a) To ensure alignment with standards in university course syllabi for licensure, the Department of Education shall conduct audits of licensure programs of study at all Arkansas institutions of higher education.

(b) The audits shall use state standards or national standards for licensure programs, or a combination of both.

(ii) The audits shall be conducted on a five-year cycle beginning on July 1, 2007 and provided to the Professional Licensure Standards Board.

(iii)(a) Institutions of higher education that do not comply with the Department of Education's audit findings and recommendations shall have one (1) semester to bring programs into compliance with the audit recommendations and submit documentation of compliance to the Professional Licensure Standards Board.

(b) If the institution of higher education does not bring its program into compliance with audit recommendations, the Professional Licensure Standards Board shall submit a recommendation to the State Board of Education for discontinuance of the authority of the institution to offer the licensure program; and

(3)(A) Establish a code of ethics for administrators and teachers in educational environments for students in prekindergarten through grade twelve (preK-12).

(B) Upon the approval of the code of ethics, procedures, and recommendations for enforcement required by this subdivision (h)(3), the valid Arkansas teaching license of any person shall be subject to the conditions, requirements, and mandates of the code of ethics, procedures, and recommendations for enforcement.

(C)(i) The Professional Licensure Standards Board may recommend to the State Board of Education and the State Board of Education may approve the monetary fees to be paid by a person for the issuance, reissuance, fine, or penalty associated with the process, procedures, or enforcement of requirements necessary to issue or maintain an Arkansas teaching license.

(ii) Under no circumstances shall any one (1) specific fee or fine exceed one hundred dollars (\$100).

(iii) Revenue collected by the State Board of Education from the fees and fines under this subdivision (h)(3)(C) shall be used for the operation of the Professional Licensure Standards Board.

(D) The Professional Licensure Standards Board may:

(i) Establish procedures for receiving, considering, and investigating complaints referred by the Department of Education, a public school district, or a public school superintendent regarding the unethical behavior of licensed school personnel;

(ii) Make recommendations for enforcement; and

(iii) Establish an ethics subcommittee of the Professional Licensure Standards Board with equal representation of public school teachers and administrators as well as one (1) member from any other category of representation on the Professional Licensure Standards Board.

History. Acts 2007, No. 846, § 3.

A.C.R.C. Notes. Acts 2007, No. 846, § 4, provided: "By July 1, 2008, the Professional Licensure Standards Board shall submit to the State Board of Education for approval the code of ethics, proce-

dures, and recommendations for enforcement required by § 6-17-422(h)(3)."

Meaning of "this act". Acts 2007, No. 846, codified as § 6-17-402 and § 6-17-422.

6-17-423. Professional development after retirement.

(a) In order to maintain a valid teacher's license under § 6-17-401, a person who retires while possessing a valid teacher's license under § 6-17-401 shall not be required to complete approved professional development required by rule of the State Board of Education.

(b)(1) A person who retires while possessing a valid teacher's license under § 6-17-401 and returns to a certified employment position with a public school district shall complete within the school year of the return to employment the professional development required for the year in which the person returns to certified employment.

(2) The person shall complete all professional development required during his or her certified employment.

(c) A retired teacher whose license has expired:

(1) More than one (1) year prior to July 31, 2007, may renew his or her license upon completion of sixty (60) hours of professional development; and

(2) Less than one (1) year prior to July 31, 2007, shall be under subsections (a) and (b) of this section.

History. Acts 2007, No. 628, § 1.

SUBCHAPTER 5 — ARKANSAS TEACHER EDUCATION, CERTIFICATION, AND EVALUATION COMMITTEE

SECTION.

6-17-501 — 6-17-505. [Repealed.]

6-17-501 — 6-17-505. [Repealed.]

Publisher's Notes. This subchapter was repealed by Acts 1993, No. 475, § 13. The subchapter was derived from the following sources:

6-17-501. Acts 1983 (Ex. Sess.), No. 110, § 1; A.S.A. 1947, § 80-1201.1.

6-17-502. Acts 1983 (Ex. Sess.), No. 110, §§ 2, 3; A.S.A. 1947, §§ 80-1201.2, 80-1201.3.

6-17-503. Acts 1983 (Ex. Sess.), No. 110, § 2; A.S.A. 1947, § 80-1201.2.

6-17-504. Acts 1983 (Ex. Sess.), No. 110, § 3; A.S.A. 1947, § 80-1201.3.

6-17-505. Acts 1983 (Ex. Sess.), No. 110, § 4; A.S.A. 1947, § 80-1201.4.

SUBCHAPTER 6 — CERTIFIED PERSONNEL TESTING PROGRAM

SECTION.

6-17-601. Board authority and directive.

6-17-602. Application for new certification.

SECTION.

6-17-603. Reporting of test scores — Confidentiality.

Effective Dates. Acts 1985, No. 693, § 4; Mar. 28, 1985. Emergency clause provided: "It is hereby found and determined by the General Assembly that the test required by Act 76 of the First Extraordinary Session of 1983 will be taken prior to the adjournment of this Regular Session; that the test scores should be held confidential; that this Act provides that such test scores shall be confidential and therefore should be given immediate effect. Therefore, an emergency is hereby declared to exist and this Act being immediately necessary for the preservation of the

public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1987, No. 512, § 6; Apr. 1, 1987. Emergency clause provided: "It is hereby found and determined by the General Assembly of the State of Arkansas that a shortage of certified teachers may exist in the future; that the immediate implementation of this Act is necessary to preserve the peace, safety and health of the citizens of the State of Arkansas. Therefore, an emergency is declared to exist, and this Act being necessary for the preservation

of the public peace, health, and safety shall be in full force and effect from and after its passage and approval.”

Acts 1997, No. 112, § 40: Feb. 7, 1997. Emergency clause provided: “It is hereby found and determined by the General Assembly that Act 10 of the First Extraordinary Session of 1995 abolished the Joint Interim Committee on Education and in its place established the House Interim Committee and Senate Interim Committee on Education; that various sections of the Arkansas Code refer to the Joint Interim Committee on Education and should be corrected to refer to the House and Senate Interim Committees on Education; that this act so provides; and that

this act should go into effect immediately in order to make the laws compatible as soon as possible. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto.”

CASE NOTES

Cited: Wood v. National Computer Systems, Inc., 814 F.2d 544 (8th Cir. Ark. 1987).

6-17-601. Board authority and directive.

The State Board of Education is authorized and directed to establish and implement a certified personnel testing program.

History. Acts 1985, No. 350, § 1; A.S.A. 1947, § 80-1270.

CASE NOTES

Cited: Wood v. National Computer Sys., 643 F. Supp. 1093 (W.D. Ark. 1986).

6-17-602. Application for new certification.

Any teacher, administrator, or other certified person who is not eligible for recertification due to failure to comply with this subchapter is eligible to apply for new certification under initial certification regulations or such other regulations as are promulgated by the State Board of Education.

History. Acts 1985, No. 350, § 4; A.S.A. 1947, § 80-1270.3; Acts 1987, No. 512, § 4.

6-17-603. Reporting of test scores — Confidentiality.

(a) Scores from the tests required under the provisions of this subchapter shall not be disclosed but shall be retained by the Department of Education as confidential records not subject to the Freedom of Information Act of 1967, § 25-19-101 et seq., or any other act which would require the disclosure thereof. However, the department shall provide each certified personnel with that person's test score and the grader's analysis of the writing portion of the test.

(b) The department shall transmit to the Governor and the House Interim Committee on Education and the Senate Interim Committee on Education a composite report indicating by county the number of persons who failed the tests and the number of persons who passed the tests.

History. Acts 1985, No. 350, § 5; 1985, No. 693, § 2; A.S.A. 1947, § 80-1270.4; Acts 1997, No. 112, § 8.

Publisher's Notes. Acts 1985, No. 695,

§ 1, allows a method of reporting to the Governor and the Joint Interim Committee on Education on a statewide basis rather than on a county basis.

CASE NOTES**ANALYSIS**

Purpose.
Damages.
Evidence.

Purpose.

This section was intended to prohibit large-scale public access to test scores, perhaps including their publication by the media. *Wood v. National Computer Systems, Inc.*, 814 F.2d 544 (8th Cir. Ark. 1987).

Damages.

There is no indication in this section that a private right of action for damages

was being created, allowing recovery simply on a showing of a breach of confidentiality involving one other person. *Wood v. National Computer Systems, Inc.*, 814 F.2d 544 (8th Cir. Ark. 1987).

Evidence.

Evidence held insufficient to show violation of confidentiality provisions of this section. *Wood v. National Computer Systems, Inc.*, 814 F.2d 544 (8th Cir. Ark. 1987).

SUBCHAPTER 7 — IN-SERVICE TRAINING**SECTION.**

- 6-17-701. Program to improve reading skills.
- 6-17-702. Staff development sessions.
- 6-17-703. Arkansas history in-service training.
- 6-17-704. Professional development plan.

SECTION.

- 6-17-705. Professional development credit.
- 6-17-706. Professional development credit exemption.
- 6-17-707. Arkansas Online Professional Development Initiative.

A.C.R.C. Notes. Acts 1995, No. 1307, §§ 1 and 2, as amended by Acts 1997, No. 112, § 36, provided: "SECTION 1. The

General Assembly hereby finds and determines that a greater emphasis on professional development for educators has been

brought about by the rapid pace of expanding knowledge in curricular areas, societal changes, and the escalating use of technology by business and industry. More requirements are being placed on teachers and administrators to lead their districts and schools toward positive changes that will result in optimal achievement by all students, and professional development is critical to all of these issues.

"SECTION 2. (a) The General Education Division of the State Department of Education shall conduct a comprehensive study of existing professional development opportunities for employees and board members of the public school districts in Arkansas.

"(b)(1) A report of such comprehensive study shall be prepared and presented to the Governor, the House and Senate Interim Committees on Education, and the State Board of Education by September 1, 1997.

"(2) The report shall include, but not be limited to, the following information:

"(A) Specific categories of professional development opportunities provided for employees and board members of public school districts;

"(B) Sources of time and funding used for professional development;

"(C) Systems of accountability used within school districts that are relative to professional development;

"(D) Human resources used in conducting or facilitating professional development activities;

"(E) Statistics demonstrating to what extent school districts have put in place well-defined professional development plans to support systematic development and implementation of school improvement.

"(c) The Director of the General Education Division of the State Department of Education shall convene a group of educational professionals from throughout the state to conduct the comprehensive study, consisting of representatives from the following groups:

"(1) School administrators;

"(2) Teachers;

"(3) Members of local school boards;

"(4) Administrators, faculty, and board members of institutions of higher education;

"(5) Directors and staff of education service cooperatives; and

"(6) Various professional educators' organizations.

"(d) The results of the comprehensive study shall be utilized in defining the future role of the State Department of Education in facilitating professional development in the public schools."

Cross References. Teacher and administrator enhancement and retraining grant program, § 6-81-601 et seq.

Effective Dates. Acts 1997, No. 787, § 9: Mar. 24, 1997. Emergency clause provided: "It is hereby found and determined by the General Assembly that the Arkansas Code does not now require Arkansas history to be taught in the public schools in this state; that Arkansas history is not being taught in all public schools in this state; that such failure must be addressed as soon as possible; that this act establishes the mechanism to ensure that Arkansas history is taught in each public school in this state and that this act should go into effect immediately in order that it might be implemented in the 1997-98 school year. Therefore an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 2003 (2nd Ex. Sess.), No. 83, § 2: Feb. 6, 2004. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the Arkansas Supreme Court in *Lake View School District No. 25 v. Huckabee*, 351 Ark. 31 (2002) declared the current system of education to be unconstitutional because it is both inequitable and inadequate; that the Arkansas Supreme Court determined that the state has an absolute duty to provide an equal opportunity to an adequate education; that requiring each school district to provide teachers with quality professional development will promote and enhance learning opportunities for students; and that this act should

become effective immediately in order for school districts to implement professional development plans. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2005, No. 1185, § 2: Mar. 24, 2005. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that school districts are currently entering into contracts for the professional development programs to be offered during the 2005-2006 school year; that school districts need sufficient time to plan and schedule professional development programs for certified personnel; and that this act is immediately necessary because a delay in its enactment may cause some districts to enter into unnecessary contracts for professional development programs. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2005, No. 2007, § 2: Apr. 11, 2005. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that school districts are currently entering into contracts for the professional development pro-

grams to be offered during the 2005-2006 school year; that school districts need sufficient time to plan and schedule professional development programs for certified personnel; and that this act is immediately necessary because a delay in its enactment may cause some districts to enter into unnecessary contracts for professional development programs. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2006 (1st Ex. Sess.), No. 36, § 3: Apr. 11, 2006. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the Arkansas Supreme Court declared the public school funding system to be inadequate and that the public schools are operating under a constitutional infirmity which must be corrected immediately; and that to correct the constitutional infirmity opportunities for an adequate education should be enhanced by improving professional development options for school districts and certified personnel. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

6-17-701. Program to improve reading skills.

(a) The Department of Education is authorized and directed to develop and implement an inclusive statewide program to improve the reading skills of students in the public schools of this state.

(b) The program shall include an in-service training program to assist elementary teachers who desire or are designated as requiring special assistance in improving their skills in teaching reading and to assist elementary principals in improving their skills in the supervision and support of reading programs.

(c) The intensive in-service training in the teaching of reading provided for in this section shall be developed and implemented under the direction of reading specialists of the department and selected in-service teachers who have been identified as having been particularly successful in the teaching of reading.

(d) This training shall include, but not necessarily be limited to:

- (1) Classroom observation;
- (2) The use of student inventories for diagnosing reading problems;
- (3) Planning instruction based on test results and classroom inventories;
- (4) Reading activities to improve reading skills;
- (5) Ideas for parental involvement in reading instruction; and
- (6) The effective use of the teacher's time in planning for instruction in reading.

(e) Records shall be kept of the activities authorized by this section, and studies shall be conducted to determine the impact of this program on the achievement test scores of the students of teachers receiving special in-service training.

(f) Participating schools shall be required to allow the use of their teachers and principals who have received training to assist in the training of other teachers and principals.

History. Acts 1983 (Ex. Sess.), No. 44, §§ 1-3; A.S.A. 1947, §§ 80-1269 — 80-1269.2.

6-17-702. Staff development sessions.

(a)(1)(A) No school district shall deny certified personnel the opportunity to attend certified instructional staff development sessions conducted by bona fide professional organizations within the State of Arkansas.

(B) Certified personnel may count up to two (2) days of five and one-half (5½) hours each of attendance at instructional professional development sessions conducted by bona fide professional organizations toward fulfillment of the five (5) days of staff development required by the Standards for Accreditation of Arkansas Public Schools and School Districts, provided the sessions have been certified by the Department of Education.

(2) The State Board of Education is hereby authorized to promulgate rules and regulations to implement the certification process.

(b) No provision of this section shall be interpreted as authorizing a local school employee to refrain from attending meetings and work-

shops designed to implement restructuring mandated by § 6-15-1001 et seq.

History. Acts 1993, No. 1151, § 1;
1995, No. 663, § 1.

6-17-703. Arkansas history in-service training.

(a) Every school district in this state shall provide two (2) hours of substantive and meaningful in-service training in Arkansas history each school year for its teachers who provide instruction in Arkansas history.

(b) The school district may contract with an education service cooperative to provide the training.

(c) The in-service training under this section shall count toward satisfaction of requirements for professional development in the Standards for Accreditation of Arkansas Public Schools and School Districts.

History. Acts 1997, No. 787, § 4; 2005, in (a), inserted “two (2) hours,” “each school year,” and “who provide instruction

Amendments. The 2005 amendment, in Arkansas history”; and added (c).

6-17-704. Professional development plan.

(a) As used in this section, “professional development” means a coordinated set of planned learning activities for teachers, administrators, and classified employees that are standards-based and continuous.

(b) The purpose of professional development is to improve teaching and learning in order to facilitate individual, school-wide, and system-wide improvements designed to ensure that all students demonstrate proficiency on state academic standards.

(c)(1) Beginning with school year 2004-2005, each school district shall prepare a professional development plan.

(2)(A) Teachers, administrators, and classified school employees shall be involved in the design, implementation, and evaluation of their respective professional development offerings under the plan.

(B) The evaluation results shall be given to each group of employees in the school district and used to improve professional development offerings.

(d) The professional development offerings may include approved conferences, workshops, institutes, individual learning, mentoring, peer-coaching, study groups, National Board for Professional Teaching Standards certification, distance learning, internships, and college or university course work.

(e)(1) The professional development offerings may meet the objectives of subdivision (e)(2) of this section developed by the National Staff Development Council and shall comply with the rules of the Department of Education governing professional development.

(2) Professional development that improves the learning of all students:

(A) Requires skillful school and school district leaders who guide continuous instructional improvement;

(B) Organizes educators into learning communities whose goals are aligned with those of the school and school district;

(C) Provides resources to support educator learning and collaboration;

(D) Uses disaggregated student data to determine educator learning priorities, monitor progress, and help sustain continuous improvements;

(E) Uses multiple sources of information to guide educator improvement and demonstrate its impact;

(F) Prepares educators to apply research to decision making;

(G) Uses learning strategies appropriate to the intended goal;

(H) Applies knowledge about human learning and change;

(I) Prepares educators to understand and appreciate all students;

(J) Creates safe, orderly, and supportive learning environments;

(K) Holds high expectations for the students' academic achievement;

(L) Deepens educators' content knowledge;

(M) Provides educators with research-based instructional strategies to assist students in meeting rigorous academic standards;

(N) Prepares educators to use various types of classroom assessments appropriately; and

(O) Provides educators with knowledge and skills to appropriately involve families and other stakeholders in education.

History. Acts 2003 (2nd Ex. Sess.), No. 83, § 1.

6-17-705. Professional development credit.

(a) Up to twelve (12) hours of professional development credit may be earned by certified personnel for time required at the beginning of each school year to plan and prepare a curriculum and other instructional material for their assigned classes if the time is:

(1) Spent in their classrooms, offices, or media centers at the public school; and

(2) Prior to the first student-teacher interaction day of the school year, but no school district shall require certified personnel to work additional days that are not included in their contracts unless the certified personnel are paid their daily rate of pay.

(b) Certified personnel shall earn one (1) hour of professional development credit for each hour of planning and preparation that meets the requirements of subsection (a) of this section.

(c) The State Board of Education shall promulgate the rules necessary for the proper implementation of this section.

History. Acts 2005, No. 1185, § 1.

6-17-706. Professional development credit exemption.

(a) Certified personnel working part time shall be exempt from one-half ($\frac{1}{2}$) of the professional development hours required under the Standards for Accreditation of Arkansas Public Schools and School Districts if they work solely in any of the following adult education programs:

- (1) Adult basic education;
- (2) General adult education;
- (3) English as a second language for adults; and
- (4) General Educational Development Test examiners.

(b) The State Board of Education shall promulgate the rules necessary for the proper implementation of this section.

History. Acts 2005, No. 2007, § 1.

6-17-707. Arkansas Online Professional Development Initiative.

(a) There is created the Arkansas Online Professional Development Initiative.

(b) Under the initiative, the Commissioner of Education shall identify teacher professional development needs in the state and prioritize the needs based on the areas of professional development most needed to improve academic and teaching knowledge and skills of certified personnel.

(c) Based on the needs and priorities identified in the assessment under subsection (b) of this section, the commissioner shall work with the Director of the Educational Television Division of the Department of Education and local school districts to develop a statewide online professional development program that includes quality professional development courses that:

(1) Are aligned to the required focus areas identified in the State Board of Education rules governing professional development and the Arkansas Comprehensive Testing, Assessment, and Accountability Program;

(2) Are aligned with the clear, specific, and challenging academic content areas as established by the Department of Education as required under § 6-15-404;

(3) Are aligned with the state curriculum frameworks established by the department for each class level or subject area included in the respective professional development programs;

(4) Are research-based and available from sources with expertise in technology-delivered professional development courses;

(5) Are consistent with the Southern Regional Education Board Multi-State Online Professional Development Standards in existence on January 1, 2005;

(6) Focus on improving student academic achievement by improving a teacher's academic and teaching knowledge and skills; and

(7) Include an assessment at the end of the program designed to measure each certified person's level of understanding and ability to implement or apply the information presented in the program.

(d)(1)(A) The Arkansas Educational Television Network shall support the delivery of the online professional development courses developed as part of the initiative to teachers and administrators in each school in each school district in the state via the Internet.

(B) In addition to the online courses developed as part of the initiative, the network may continue to deliver professional development by broadcast, compressed, satellite, and face-to-face methods.

(2) The online professional development courses supported by the network or other providers shall include online registration, course evaluation, and attendance and completion documents.

(3) Any provider of technology-delivered professional development under the initiative shall demonstrate an ability to successfully deliver technology-delivered products and services.

(4) If a technology-delivered professional development course or service that has been identified as needed under the assessment in subsection (b) of this section is not available, the network or other providers shall work with the department to develop a course or service to meet the identified need.

(e) The department shall determine the content of and preapprove all professional development courses or programs delivered by the network that qualify for professional development credit as required by the Standards for Accreditation of Arkansas Public Schools and School Districts or teacher licensure requirements.

(f) The department shall provide the staff and resources needed to provide the quality leadership necessary to coordinate the initiative.

(g) The initiative shall include a method for the department, the network, school districts, schools, and certified personnel to annually evaluate the effectiveness of the initiative and its online professional development course and programs.

(h)(1) Beginning with the 2006-2007 school year, the department may include as part of a school improvement plan guidelines for the professional development programs to be delivered to the certified personnel employed by a school in school improvement status or a school district in school improvement status or academic distress.

(2)(A) As part of the school improvement plan, the department may require the participation and completion of professional development courses or programs by certified personnel in the school or school district as appropriate for the certified personnel's job assignments and duties.

(B) Certified personnel employed by any school in school improvement or school district in school improvement or academic distress shall participate in, complete, and pass the assessment for the professional development requirements included in the school's or school district's school improvement plan.

(i) The department shall further enhance its leadership role in professional development for certified personnel by:

(1) Developing technology-based professional development programs and other enhanced professional development options for school districts and certified personnel; and

(2) Employing two (2) persons who have a high level of expertise in professional development for the purpose of enhancing professional development opportunities as set forth in this section.

History. Acts 2005, No. 2318, § 1; 2006 (1st Ex. Sess.), No. 36, § 1.

Amendments. The 2006 (1st Ex. Sess.) amendment added (i).

SUBCHAPTER 8 — TEACHERS' SALARIES GENERALLY

SECTION.

- 6-17-801. Indefinite teacher employment contract void.
- 6-17-802. Twelve-month contracts for vocational agriculture teachers.
- 6-17-803. Optional contract payable in monthly installments.
- 6-17-804. Deductions for group insurance premium.
- 6-17-805. Deduction for professional membership dues.
- 6-17-806. Arkansas Teachers' Salaries Study Commission.

SECTION.

- 6-17-807. Additional days.
- 6-17-808. Arkansas Classified Personnel Salaries Study Commission.
- 6-17-809. Teachers for the visually impaired entering state service.
- 6-17-810. Teachers for the hearing impaired entering state service.
- 6-17-811. Incentives for teacher recruitment and retention in high-priority districts.

Cross References. Power of directors to contract with teachers, § 6-13-620.

Effective Dates. Acts 1951, No. 37, §§ 3, 4; Feb. 2, 1951. Emergency clause provided: "Section 3. Whereas, many of the institutions of higher learning of this state have been unable to provide group insurance for the members of their staffs because of the fact that payments for same cannot be withheld by agreement with the employees, this act is necessary for the preservation of the peace, health, and safety of the people of the State of Arkansas."

"Section 4. An emergency is hereby declared to exist and this act shall be in full force and effect from and after its passage and approval."

Acts 1989, No. 712, § 4; Mar. 20, 1989. Emergency clause provided: "It is hereby found and determined by the General Assembly of the State of Arkansas that school districts in this state are increasing teacher contract days from one school year to the next with no guarantee to the teacher of a daily pro rata increase in pay based on the salary schedule of the dis-

trict for the next school year; that districts are requiring to make decisions regarding continued employment of teachers by May 1; and that teachers will not be adequately compensated for the 1989-90 school year and thereafter so that immediate implementation of this Act is necessary to preserve the peace, safety and health of citizens and teachers of the State of Arkansas. Therefore, an emergency is declared to exist, and this Act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1997, No. 112, § 40; Feb. 7, 1997. Emergency clause provided: "It is hereby found and determined by the General Assembly that Act 10 of the First Extraordinary Session of 1995 abolished the Joint Interim Committee on Education and in its place established the House Interim Committee and Senate Interim Committee on Education; that various sections of the Arkansas Code refer to the Joint Interim Committee on Education and should be corrected to refer to the House

and Senate Interim Committees on Education; that this act so provides; and that this act should go into effect immediately in order to make the laws compatible as soon as possible. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 1999, No. 1012, § 20: July 1, 1999. Emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1999 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1999 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1999."

Acts 1999, No. 1013, § 25: July 1, 1999. Emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1999 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1999 could work irreparable harm upon the proper administration and provision of essential governmental programs.

Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1999."

Acts 2001, No. 1735, § 2: Apr. 18, 2001. Emergency clause provided: "It is found and determined by the General Assembly that under present law a question has arisen as to whether schools are able to contract with certified personnel for summer work at a rate of pay of less than the normal contract wage; that such restriction is inequitable; that this act will allow school districts to contract summer work at a negotiated rate; and that this act should go into effect as soon as possible in order for it to be effective during the coming summer. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 2003 (2nd Ex. Sess.), No. 111, § 2: Mar. 9, 2004. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that teachers and classified employees shall be treated equally and fairly in the workplace; and that any impediment to that right can result in a breach of peace in the workplace; and that this act is immediately necessary to prevent any breach of peace among school employees in the state. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

RESEARCH REFERENCES

Am. Jur. 68 Am. Jur. 2d, Schools, § 144 et seq. **C.J.S.** 78 C.J.S., Schools, § 218 et seq.

6-17-801. Indefinite teacher employment contract void.

(a) In any contract of employment entered into by and between a school district and a teacher as defined by Acts 1979, No. 766 [repealed], any provision therein specifying that the employee's salary may be decreased to conform to legal fiscal requirements or any other attempt therein to make the salary to be paid to the employee less than definite and certain as to the minimum amount of salary is declared to be null and void as opposed to the public policy of the State of Arkansas.

(b) In any contract attempting to make a teacher's salary less than definite and certain by qualifying language, the amount of stated salary without such qualifying language shall be the minimum amount the employee is entitled to receive for services rendered.

(c) The remaining provisions of any contract found to be in violation of the provisions of this section shall be given full force and effect.

History. Acts 1981 (Ex. Sess.), No. 3, §§ 1-3; A.S.A. 1947, §§ 80-1335 — 80-1337. **Cross References.** Leaves of absence, § 6-17-306.

6-17-802. Twelve-month contracts for vocational agriculture teachers.

All public high schools in this state which offer vocational agriculture training shall, beginning with the next school year, contract with the vocational agriculture teachers on a twelve-month basis.

History. Acts 1981, No. 28, § 1; A.S.A. 1947, § 80-2509.1.

6-17-803. Optional contract payable in monthly installments.

(a)(1) Any school district in this state, at the option of the school district board of directors, may enter into contracts for the hiring of teachers to teach in the next coming school year, whereby the annual salaries of such teachers may be paid on the basis of twelve (12) equal monthly installments.

(2) In no case shall the monthly installments under such contracts commence earlier than the first day of the commencement of the school fiscal year covered by the contract.

(b)(1) Any contract entered into pursuant to this section whereby payments are to be made prior to the commencement of the teaching duties under such contract in the school year covered thereby shall contain a clause clearly setting forth the liability of any teacher who

receives payments prior to the commencement of teaching duties and who refuses to perform under the terms of the contract.

(2) Such clause shall be to the effect that any schoolteacher breaching such a contract shall be indebted to the school district for the amount of moneys received by him or her under the contract prior to the commencement of his or her teaching duties.

(3) If any teacher fails to repay any money owed to a school district upon a contract breached by him or her, the secretary of the school district shall certify the failure to the Department of Education, and the department shall revoke such teacher's license to teach until all of the money is repaid.

(c) Any school district, or any officer thereof, charged with the responsibility of negotiating and entering into contracts for the employment of teachers for such school district shall be relieved of any liability arising from the breach of any contract made in good faith pursuant to the provisions of this section.

History. Acts 1965, No. 70, §§ 1-3; A.S.A. 1947, §§ 80-1330 — 80-1332.

CASE NOTES

Cited: Magnet Cove Sch. Dist. v. Barnett, 81 Ark. App. 11, 97 S.W.3d 909 (2003).

6-17-804. Deductions for group insurance premium.

For the purpose of payment of group insurance policy premiums, upon the execution by any teacher or other school employee of an appropriate form of authorization and delivery thereof to the fiscal officer of the school district wherein such person is employed, the fiscal officer shall withhold the designated amount from that person's monthly salary payments and shall transmit the amount, on or before the tenth day of each succeeding month, to the insurance company named in the authorization.

History. Acts 1949, No. 316, § 1; 1951, No. 37, § 1; A.S.A. 1947, § 80-1324.

6-17-805. Deduction for professional membership dues.

(a) Upon the written request of any teacher or classified employee, the board of directors of any school district of the state shall deduct from the salary of that teacher or classified employee such sums as the teacher or classified employee shall specify for the payment of membership dues in any bona fide teacher's or employee's educational professional organization designated by the teacher or classified employee in the request.

(b) The teacher or classified employee may request a lump-sum deduction or have the sum to be deducted spread over the school year.

(c) The board of directors, or its authorized representative, shall transmit the sum deducted to the organizations designated by the teacher or classified employee in the request.

(d) All requests shall bear the manual signature of the teacher or classified employee.

(e) The request shall be filed with the contract of the teacher or classified employee and shall be subject to audit by the Division of Legislative Audit.

(f) As used in this section:

(1) "Classified employee" means any person employed by a school district under a written annual contract who is not required to have a teaching certificate issued by the Department of Education as a condition of employment; and

(2) "Teacher" means any person holding a certificate issued by the State of Arkansas and employed by a school district in a teaching, instructional, supervisory, administrative, or educational and scientific capacity.

History. Acts 1969, No. 108, §§ 1, 2;
A.S.A. 1947, §§ 80-1333, 80-1334; Acts
2003 (2nd Ex. Sess.), No. 111, § 1.

6-17-806. Arkansas Teachers' Salaries Study Commission.

(a)(1) There is created the Arkansas Teachers' Salaries Study Commission.

(2) It shall be composed of:

(A) The Chair of the House Education Committee or his or her appointee;

(B) The Chair of the Senate Education Committee or his or her appointee;

(C) The Commissioner of Education;

(D) The Director of the Department of Workforce Education;

(E) One (1) representative of the Arkansas Association of Educational Administrators;

(F) One (1) representative of the Arkansas Education Association;

(G) One (1) representative of the Arkansas School Boards Association;

(H) The following persons appointed by the Governor:

(i) One (1) public school teacher;

(ii) One (1) public school superintendent; and

(iii) Two (2) lay persons from the state at large.

(b) The Arkansas Teachers' Salaries Study Commission shall conduct its study of the disparity in teachers' salaries among the state's school districts and among other states and report the results of its study, along with any recommendations, to each session of the General Assembly.

History. Acts 1985, No. 1047, § 1; 1987, No. 97, § 1; 1991, No. 54, § 1.

6-17-807. Additional days.

(a) If a teacher is required to work more days than provided for under the teacher's contract, then the teacher's pay under the contract shall be increased proportionately so that the teacher will receive pay for each additional day the teacher is required to work at no less than the daily rate paid to the teacher under the teacher's contract.

(b) Each school district in this state shall establish a normal base contract period for teachers.

(c) The normal base contract period for each school district shall be the number of days the majority of teachers employed by the school district in the 2000-2001 school year are required to work as specified on the 2000-2001 contracts as of March 1, 2001.

(d) If the normal base contract period in any school district is increased, the teacher's pay under the contract shall be increased proportionately so that the teacher will receive pay for each day added to the contract at no less than the daily rate paid to the teacher under the teacher's current existing contract.

(e) This section shall not apply to separate contracts for employment with a teacher to teach summer school or to perform services that do not require the teacher to hold a teaching certificate to perform those services.

(f) In the event that the school district desires to employ a teacher part time to perform services for the school district in the teacher's field of certification after expiration of the normal base contract, as part of the teacher's normal teaching contract, the school district may contract for such part-time work as long as the teacher is agreeable and is paid on a pro rata basis for that work.

(g) A school district which contracts with a teacher to teach summer school or to perform services that do not require the teacher to hold a teaching certificate to perform those services shall enter into a separate contract with the teacher for those services and shall not condition initial employment of the teacher or renewal of the teacher's regular teaching contract on entering into such a separate contract.

History. Acts 1989, No. 712, § 1; 2001, No. 1735, § 1.

RESEARCH REFERENCES

U. Ark. Little Rock L. Rev. Survey of Assembly, Education Law, 24 U. Ark. Little Rock L. Rev. 453.

CASE NOTES

ANALYSIS

In General.

Contract Held Invalid.

Performance of Other Services.

In General.

Although this section was passed in response to the school districts' practice of adding days to the teacher's contracts from one year to the next without a proportional increase in pay, this section does not restrict its requirement to pay teachers according to their daily rate only if additional days are added to a teacher's contract from one school year to the next; nor does this section confine itself to the act of teaching; the purpose of this section may be fairly construed to ensure that teachers are fairly compensated for additional days worked beyond the standard school year, regardless of whether the work consists of teaching or something else. *Bond v. Lavaca Sch. Dist.*, 73 Ark. App. 5, 38 S.W.3d 923 (2001), rev'd, 347 Ark. 300, 64 S.W.3d 249 (2001).

Contract Held Invalid.

The trial court erred as a matter of law when it held that a teacher's contract did

not violate this section where the contract plainly obligated the teacher to work additional days beyond the standard school year and paid less than her daily rate of pay for those additional days; further, the school district's supplemental salary schedule, which was incorporated into the teacher's contract and which compensated her for extra days at a rate less than her daily rate of pay, also violated this section. *Bond v. Lavaca Sch. Dist.*, 73 Ark. App. 5, 38 S.W.3d 923 (2001), rev'd, 347 Ark. 300, 64 S.W.3d 249 (2001).

Performance of Other Services.

Rate of compensation upheld where the teacher contracted to work 205 days and was compensated for 205 days, even though for 185 days she was compensated at her daily rate for work as a certified teacher and the other 20 days she was compensated at a permissible lower rate for uncertified work as a program coordinator. *Bond v. Lavaca Sch. Dist.*, 347 Ark. 300, 64 S.W.3d 249 (2001).

6-17-808. Arkansas Classified Personnel Salaries Study Commission.

(a) There is hereby created the Arkansas Classified Personnel Salaries Study Commission, to be composed of the following:

(1) An appointee of the Chair of the House Interim Committee on Education;

(2) An appointee of the Chair of the Senate Interim Committee on Education;

(3) The Commissioner of Education;

(4) The Director of the Department of Workforce Education;

(5) One (1) representative of the Arkansas Association of Educational Administrators;

(6) One (1) representative of the Arkansas Education Association;

(7) One (1) representative of the Arkansas School Boards Association; and

(8) The following persons to be appointed by the Governor:

(A) Five (5) public school classified personnel representatives, who shall include one (1) active employee from each of the following job categories:

(i) School secretary or clerk;

(ii) School maintenance;

- (iii) Bus driver;
- (iv) Food service; and
- (v) Aide or paraprofessional;
- (B) One (1) public school superintendent; and
- (C) Two (2) lay persons appointed from the state at large who shall not be former school administrators.

(b)(1) The commission shall collect from Arkansas public schools the salary schedules by job category for classified personnel and conduct a study of the disparity and inadequacies in classified personnel salaries among the state's school districts.

(2) The commission shall recommend solutions to the 2001 General Assembly, including minimum salary guarantees for classified personnel salaries by specific job and classification.

(c) Technical support to the commission shall be provided by the Department of Education.

(d)(1) The school districts of this state shall adopt written salary schedules for classified personnel annually and shall file the schedules with the department no later than September 15 for the school year in which they are in effect.

(2) The schedules shall reflect the actual pay practices of the school district for classified personnel.

(e) As used herein, "classified personnel" means all public school personnel who are not required to hold a valid teaching certificate issued by the department as a condition of employment and includes, but need not be limited to, secretaries, maintenance employees, bus drivers, food service employees, instructional aides, and paraprofessionals.

History. Acts 1991, No. 395, §§ 1-4; 1997, No. 112, § 9; 1999, No. 391, §§ 7, 8; 1999, No. 1542, § 1.

6-17-809. Teachers for the visually impaired entering state service.

Upon the superintendent's certification to the state personnel administrator of prior service at an educational institution and of the most recent contractual salary, the salary of teachers holding certification in teaching the visually impaired and entering state service as teachers for the sensory impaired may be adjusted to a rate of pay closest to but not less than their most recent annual salary.

History. Acts 1999, No. 1012, § 9.

A.C.R.C. Notes. Acts 2007, No. 326, § 14, provided: "TEACHERS FOR SENSORY IMPAIRED ENTERING STATE SERVICE. Upon the superintendent's certification to the State Personnel Administrator of prior service at an educational institution and most recent contractual salary, the salary of teachers holding cer-

tification in teaching the visually impaired and entering state service as teachers for the sensory impaired may be adjusted to a rate of pay closest to but not less than their most recent annual salary.

"The provisions of this section shall be in effect only from July 1, 2007 through June 30, 2009."

6-17-810. Teachers for the hearing impaired entering state service.

Upon the superintendent's certification to the state personnel administrator of prior service at an educational institution and of the most recent contractual salary, the salary of teachers holding certification in teaching the hearing impaired and entering state service as teachers for the sensory impaired may be adjusted to a rate of pay closest to but not less than their most recent annual salary.

History. Acts 1999, No. 1013, § 14.

A.C.R.C. Notes. Acts 2007, No. 328, § 10, provided: "TEACHERS FOR SENSORY IMPAIRED ENTERING STATE SERVICE. Upon the superintendent's certification to the State Personnel Administrator of prior service at an educational institution and most recent contractual salary, the salary of teachers holding cer-

tification in teaching the hearing impaired and entering state service as teachers for the sensory impaired may be adjusted to a rate of pay closest to but not less than their most recent annual salary. The provisions of this section shall be in effect only from July 1, 2007 through June 30, 2009."

6-17-811. Incentives for teacher recruitment and retention in high-priority districts.

(a)(1) As used in this section:

(A) "High-priority district" means a public school district:

(i) In which eighty percent (80%) or more of public school students are eligible for the free or reduced-price lunch program under the National School Lunch Act based on the October 1 student count of the previous year submitted to the Department of Education; and

(ii) That had a three-quarter average daily membership in the previous year of one thousand (1,000) or fewer students;

(B)(i) "New teacher bonus" means an incentive bonus provided under subdivisions (b)(1)-(3) of this section to a teacher that is within the first three (3) years of employment with a single high-priority district.

(ii) A teacher is not entitled to receive a new teacher bonus from any high-priority district other than the high-priority district that first employed the teacher and paid the teacher a new teacher bonus;

(C) "Previous year" means the school year immediately preceding the present school year;

(D) "Retention bonus" means an incentive bonus provided under subdivision (b)(4) or subdivision (b)(5) of this section; and

(E)(i) "Teacher" means a certified classroom teacher who spends seventy percent (70%) of his or her time working directly with students in a classroom setting teaching all grade-level or subject-matter appropriate classes.

(ii) "Teacher" includes guidance counselors and librarians.

(2) The State Board of Education shall promulgate rules to determine high-priority districts of the state.

(b) Beginning in the 2007-2008 school year and each school year thereafter, a teacher licensed by the state board who enters into a

teaching contract and who completes the entire current school year teaching in a high-priority district shall at the end of the school year and upon completion of his or her contracted teaching obligations be entitled to receive in addition to all other contracted salary and benefits:

(1) For a newly hired teacher who has not previously taught in a high-priority district, a one (1) time signing bonus of four thousand dollars (\$4,000) for the first year of service in the high-priority district to be paid upon completion of the full year of teaching;

(2) For a newly hired teacher who meets the requirements of subdivision (b)(1) of this section, who continues to teach in the same high-priority district, and who completes the second full year of contracted teaching obligations, a new teacher bonus in the amount of three thousand dollars (\$3,000) in addition to all other contracted salary and benefits;

(3) For a teacher who meets the requirements of subdivisions (b)(1) and (2) of this section, who continues to teach in the same high-priority district, and who completes a third year of contracted teaching obligations, a new teacher bonus of three thousand dollars (\$3,000) in addition to all other contracted salary and benefits;

(4) For a teacher who meets the requirements of subdivisions (b)(1)-(3) of this section, who enters his or her fourth or subsequent year of service with the same high-priority district or begins employment with a high-priority district other than the high-priority district where he or she was employed at the time he or she received a new teacher bonus under subdivisions (b)(1)-(3) of this section, a retention bonus in the amount of two thousand dollars (\$2,000) for the fourth and each subsequent complete year of service in the high-priority district to be paid at the end of the school year after completing all contractual obligations; and

(5) For a teacher employed in a high-priority district who does not meet the requirements of subdivisions (b)(1)-(3) of this section, a retention bonus in the amount of two thousand dollars (\$2,000) for each complete year of service in the high-priority district to be paid at the end of the school year after completing all contractual obligations.

(c)(1) No teacher shall be entitled to a bonus provided under this section unless the teacher has fulfilled his or her contractual obligations for the current school year.

(2) The superintendent of the high-priority district where the teacher is employed shall certify in writing to the department that the teacher has completed all contractual obligations for the school year.

(d) Any bonus pay awarded under this section to eligible full-time-equivalent teachers who do not work the entire school year shall be pro rated based on the portion of the school year that the eligible teacher was employed by the high-priority district.

(e) The department shall:

(1) Monitor the implementation of the incentive program established by this section;

(2) Collect data to be used to evaluate the incentive program's effectiveness; and

(3) Promulgate any necessary rules to administer the requirements of this teacher recruitment and retention program.

History. Acts 2003 (2nd Ex. Sess.), No. 101, § 1; 2005, No. 1962, § 12; 2005, No. 2151, § 31; 2007, No. 1044, § 1.

A.C.R.C. Notes. As enacted, this section contained additional language which read: "(c)(2) Before September 30, 2006, submit to the House and Senate Interim Committees on Education a comprehensive evaluation of the incentive program established by this section."

"(d) By October 15, 2006, the House and Senate Interim Committees on Education shall determine whether to recommend the continuation of the incentive program."

Amendments. The 2005 amendment by No. 1962 substituted "Department of Education" for "department."

The 2005 amendment by No. 2151 redesignated former (a)(1)(C) as present (a)(1)(C)(i); added (a)(1)(C)(ii); substituted "working directly" for "interacting" in (a)(1)(C)(i); inserted (b)(2)(A)(i) and the (b)(2)(A)(ii) designations and made related changes; inserted "shall be paid" in (b)(2)(A); inserted "voluntarily" in (b)(2)(B)(i) and (b)(2)(B)(ii); in (b)(2)(B)(i), inserted "on a pro-rata basis" and substituted "years" for "year"; added (b)(2)(B)(iii), (b)(2)(B)(iv) and (c); and redesignated former (c) as present (d).

The 2007 amendment rewrote the section.

U.S. Code. The National School Lunch Act, referred to in this section, is codified as 42 U.S.C. § 1751 et seq.

SUBCHAPTER 9 — THE ARKANSAS TEACHERS' SALARY LAW

SECTION.

- 6-17-901. Title.
- 6-17-902. Definitions.
- 6-17-903 — 6-17-906. [Repealed.]
- 6-17-907. Funds generally.
- 6-17-908. Teachers' salary fund.
- 6-17-909, 6-17-910. [Repealed.]
- 6-17-911. Effect of failure to make records and settlements.
- 6-17-912. Advances from other funds.
- 6-17-913. Audits of accounts.

SECTION.

- 6-17-914. [Repealed.]
- 6-17-915. Filing of personnel lists.
- 6-17-916, 6-17-917. [Repealed.]
- 6-17-918. Issuing and countersigning warrants.
- 6-17-919. Warrants void without valid certificate and contract.
- 6-17-920. [Repealed.]
- 6-17-921. [Repealed.]
- 6-17-922. [Repealed.]

Cross References. Governmental Compliance Act, § 10-4-301 et seq.

Preambles. Acts 1983, No. 402 contained a preamble which read: "Whereas, Act 136 of 1943 amended Act 319 of 1941 to provide that every contract of employment between a teacher and a school board shall be renewed unless within ten (10) days after the date of the end of the school term the teacher is notified by the school board that the contract will not be renewed for the succeeding year; and

"Whereas, the Teacher Fair Dismissal Act of 1979 (Act 766) contains the same provision except that the school superintendent instead of the school board is

required to notify the teacher of the intent to not renew the teacher's contract; and

"Whereas, although Act 766 of 1979 superseded the aforementioned provision of Act 319 of 1941, as amended, both Acts are still compiled in the Arkansas Statutes and confusion exists as to the state of the law; and

"Whereas, the best method of clarifying this confusion is to repeal the obsolete language which required the school board to notify the teachers of the intention to not renew the teaching contract in the succeeding year;

"Now therefore...."

Effective Dates. Acts 1941, No. 319,

§ 19: approved Mar. 26, 1941. Emergency clause provided: "It is hereby determined that the education interest of the children of the State can be best served by improving the salaries and qualifications of teachers; and it is found that this act is necessary for the preservation of the peace, health, and safety of the people, an emergency is hereby declared to exist, and this act shall take effect and be in full force from, and after, its passage."

Acts 1943, No. 136, § 13: Mar. 1, 1943. Emergency clause provided: "Because of the war emergency many teachers are leaving the schools of Arkansas to accept other positions because of more attractive salaries; thus, it is hereby determined that the educational interests of the children of the State of Arkansas can be best served by increasing the salaries and qualifications of teachers; therefore, it is found that this act is necessary for the preservation of the peace, health, and safety of the property, and an emergency is hereby declared to exist, and the provisions of this act shall take effect and be in full force and effect from and after its passage and approval."

Acts 1959, No. 455, § 2: Mar. 30, 1959. Emergency clause provided: "It is hereby found and determined by the General Assembly that the existing laws of this State regarding the revocation or renewal of teachers contracts are confusing; that many school boards and schoolteachers are uncertain as to the time and the method of revoking or renewing such contracts; and, that only by the immediate passage of this act may said situation be corrected. Therefore, an emergency is hereby declared to exist and this act being necessary for the preservation of the public peace, health and safety shall be in full

force and effect from and after its passage and approval."

Acts 1979, No. 719, § 3: July 1, 1979.

Acts 1985, No. 413, § 3: Mar. 19, 1985. Emergency clause provided: "It is hereby found and determined that the present law puts an unnecessary burden on school districts to file annual budgets and this Act is necessary to alleviate the time constraints the school districts are now under. Therefore, an emergency is hereby declared to exist and this Act being immediately necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1999, No. 1078, § 92: effective July 1, 2000.

Acts 2001, No. 533, § 3: July 1, 2001. Emergency clause provided: "It is found and determined by the General Assembly that the revisions in this act are necessary for the proper distribution of funds by the county treasurer, and the implementation of the act is necessary to allow proper receipt and distribution of the school funds prior to the beginning of the school year. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 2001."

Acts 2001, No. 1220, § 20: July 1, 2001. Emergency clause provided: "It is found and determined by the General Assembly that changes to the distribution of public school funds must take effect at the time that appropriations become effective and that to not do so would create confusion in the state's public school districts. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 2001."

RESEARCH REFERENCES

Am. Jur. 68 Am. Jur. 2d, Schools, § 128 et seq.

Ark. L. Rev. Procedural Due Process and the Teacher, 29 Ark. L. Rev. 87.

C.J.S. 78 C.J.S., Schools, § 218 et seq.

CASE NOTES

Contracts.

Traditional contract principles applied to teacher employment cases and were not

rendered inapplicable by teacher dismissal law or this subchapter. *Gillespie v. Board of Educ.*, 528 F. Supp. 433 (E.D.

Ark. 1981), *aff'd*, 692 F.2d 529 (8th Cir. Ark. 1982).

Cited: *Springdale School Dist. v. Jamerson*, 274 Ark. 78, 621 S.W.2d 860 (1981).

6-17-901. Title.

The title of this subchapter shall be "The Arkansas Teachers' Salary Law".

History. Acts 1941, No. 319, § 1; A.S.A. 1947, § 80-1301.

6-17-902. Definitions.

As used in this subchapter, "teacher" shall include full-time employee of a school district who is compelled by law to secure a license from the State Board of Education.

History. Acts 1941, No. 319, § 2; 1943, No. 136, § 1; 1949, No. 451, § 1; A.S.A. 1947, § 80-1302; Acts 1993, No. 294, § 11.

6-17-903 — 6-17-906. [Repealed.]

Publisher's Notes. These sections, concerning rules and regulations; cooperation of county supervisors with State Board of Education; revenue percentages for salaries; and salary allotments according to certificate, were repealed by Acts 1993, No. 294, § 11. They were derived from the following sources:

6-17-903. Acts 1941, No. 319, § 14; A.S.A. 1947, § 80-1314.

6-17-904. Acts 1941, No. 319, § 16; 1943, No. 136, § 9; A.S.A. 1947, § 80-1316.

6-17-905. Acts 1941, No. 319, § 3; 1943, No. 136, § 2; 1945, No. 301, § 1; 1947, No. 22, § 1; A.S.A. 1947, § 80-1303.

6-17-906. Acts 1941, No. 319, § 2; 1943, No. 136, § 1; 1947, No. 138, § 1; 1949, No. 451, § 1; A.S.A. 1947, § 80-1302.

6-17-907. Funds generally.

(a) The county treasurer of each county in the state is directed to establish for each school district for which he or she is treasurer the following funds:

- (1) The teachers' salary fund;
- (2) Operating fund;
- (3) Building fund;
- (4) Debt service fund;
- (5) Capital outlay fund; and
- (6) Consolidated federal grants fund — Control.

(b) The county treasurer shall credit to the operating fund all other revenues not earmarked for the building fund, debt service fund, capital outlay fund, or consolidated federal grants fund.

(c) The county treasurer shall credit to the building fund those funds received:

- (1) Through the sale of bonds or otherwise;

(2) From insurance collected for damages to school property except when the property damages have been repaired out of the operating fund which will be reimbursed by the insurance proceeds.

(d) The county treasurer shall credit to the debt service fund revenue from any continuing levy for the retirement of bonded indebtedness.

(e) The county treasurer shall credit to the capital outlay fund any revenue specifically dedicated for capital outlay fund purposes.

(f) The county treasurer shall credit all the various federal funds to the consolidated federal grants fund unless otherwise specifically designated by the Department of Education.

(g) The county treasurer charged with custody of the aforementioned consolidated federal grants fund shall be responsible only for the combined federal funds in his or her possession without regard to the various approved projects and limitations within the total federal allocations to the school district.

(h) Accountability and separability of various projects shall be the responsibility of each school district.

(i) The approved budget for the school district shall be used as a guide by the county treasurer in the settling of these funds.

(j) The local board may authorize the county treasurer to transfer funds from the operating fund to the teachers' salary fund.

(k) The county treasurer may request representatives of the Division of Legislative Audit or of the department to assist in establishing and crediting the various percentages of revenue to the respective funds.

(l) When a school district has a school district treasurer, the county treasurer may establish for that school district only the fund or funds needed to properly note revenues received for the school district and disbursements made to the school district.

(m)(1) If a school district uses a computerized accounting system that properly segregates revenues and disbursements by type and fund in accordance with state law and the division requirements, the school district may request that the county treasurer, serving as school district treasurer, receive and disburse all funds from one (1) operating account.

(2) The request shall be made in writing by the superintendent of the school district to the county treasurer.

History. Acts 1941, No. 319, § 3; 1943, No. 233, §§ 3, 4; 1999, No. 1078, § 62; No. 136, § 2; 1949, No. 451, § 2; 1973, No. 2001, No. 533, §§ 1, 2.

496, § 1; 1981, No. 102, § 1; A.S.A. 1947, **Effective Dates.** Acts 1999, No. 1078, § 80-1303; Acts 1993, No. 294, § 11; 1995, § 92; July 1, 2000.

RESEARCH REFERENCES

U. Ark. Little Rock L. Rev. Survey of assembly, Education Law, 24 U. Ark. Little Rock L. Rev. 453.

6-17-908. Teachers' salary fund.

(a) Only warrants or checks in payment of salaries of teachers, as defined in § 6-17-902, in payment of dues of teachers to professional organizations, in payment of teachers' contributions to the Arkansas Teacher Retirement System, and in payment of insurance or other fringe benefits for teachers shall be paid from the teachers' salary fund. However, insurance or other fringe benefits must be approved by a majority of the teachers in the school district voting in a secret election.

(b) The county treasurer and his or her surety or the district treasurer, if the school district has its own treasurer, and his or her surety shall be liable for any warrants or checks paid from the teachers' salary fund which are not herein authorized.

(c) No officer, agent, or other person shall charge or collect any commission for handling any part of the teachers' salary fund.

History. Acts 1941, No. 319, §§ 3, 15; 1979, No. 602, § 1; A.S.A. 1947, §§ 80-1943, No. 136, § 2; 1945, No. 301, § 2; 1303, 80-1315; Acts 1993, No. 294, § 11.

CASE NOTES**Surplus Funds.**

Teacher was not entitled to recover surplus in Teachers' Salary Fund where balance was carried over to following year

under approved procedure and paid out to teacher in following school year. *Vanlandingham v. School Dist.*, 221 Ark. 463, 253 S.W.2d 965 (1953).

6-17-909, 6-17-910. [Repealed.]

Publisher's Notes. These sections, concerning limitations on the use of the Public School Fund, certification of revenue amounts, and reports thereon, were repealed by Acts 1993, No. 294, § 11. They were derived from the following sources:

6-17-909. Acts 1941, No. 319, § 13; A.S.A. 1947, § 80-1313.

6-17-910. Acts 1941, No. 319, § 4; 1943, No. 136, § 3; 1947, No. 138, § 2; 1949, No. 451, § 3; A.S.A. 1947, § 80-1304.

6-17-911. Effect of failure to make records and settlements.

(a) The disbursing officer of the State Board of Education shall withhold any and all state funds due the school districts of any county until the county treasurer has set up his or her records in accordance with § 6-17-907.

(b) If the county collector fails to make settlements with the county treasurer as now provided by law, the county treasurer shall forthwith notify the Commissioner of Education and the Director of the Department of Finance and Administration of such failure.

(c) If such delinquent settlement is not made within two (2) weeks, the Treasurer of State shall withhold the monthly distribution of county aid provided for under § 19-5-602(b) upon notification from the Director of the Department of Finance and Administration that the county has failed to make such settlement. The monthly distribution shall be withheld until such settlement is made to the satisfaction of the director.

History. Acts 1941, No. 319, § 3; 1945, No. 301, § 3; 1949, No. 451, § 2; A.S.A. 1947, § 80-1303; Acts 1993, No. 294, § 11; 1999, No. 1078, § 63.

Effective Dates. Acts 1999, No. 1078, § 92: July 1, 2000.

6-17-912. Advances from other funds.

When acting in the capacity as school treasurer, the county treasurer is authorized to make advances from one (1) fund to another upon written request from the local school district board of directors during the fiscal year.

History. Acts 1941, No. 319, § 4; 1943, No. 136, § 3; 1947, No. 138, § 2; 1949, No. 451, § 3; A.S.A. 1947, § 80-1304; Acts 1993, No. 294, § 11; 1995, No. 233, § 5; 1999, No. 1078, § 64.

Effective Dates. Acts 1999, No. 1078, § 92: July 1, 2000.

CASE NOTES

Cited: Shelton v. McKinley, 174 F. Supp. 351 (E.D. Ark. 1959); Freeman v. Gould Special Sch. Dist., 405 F.2d 1153 (8th Cir. 1969); Western Grove Sch. Dist. v. Strain, 288 Ark. 507, 707 S.W.2d 306 (1986).

6-17-913. Audits of accounts.

(a) The accounts of all school districts shall be audited annually by the Division of Legislative Audit or a certified public accountant.

(b) Where audits are made by a certified public accountant, a certified copy of the audit shall be distributed to the school district, the Department of Finance and Administration, the Department of Workforce Education, and the Department of Education.

(c)(1) The division shall provide a copy of every audit report performed on each school district to the county clerk of the county in which the school district is located.

(2) The county clerk shall keep a copy of the audit reports performed on the school district on file for at least two (2) years.

History. Acts 1941, No. 319, § 4; 1943, No. 136, § 3; 1947, No. 138, § 2; 1949, No. 451, § 3; A.S.A. 1947, § 80-1304; Acts 1993, No. 294, § 11; 1999, No. 1078, § 65; 1999, No. 1244, § 1.

Effective Dates. Acts 1999, No. 1078, § 92: July 1, 2000.

CASE NOTES

Cited: Shelton v. McKinley, 174 F. Supp. 351 (E.D. Ark. 1959); Freeman v. Gould Special Sch. Dist., 405 F.2d 1153 (8th Cir. 1969); Western Grove Sch. Dist. v. Strain, 288 Ark. 507, 707 S.W.2d 306 (1986).

6-17-914. [Repealed.]

Publisher's Notes. This section, concerning district budgets, was repealed by Acts 2005, No. 2121, § 4. The section was derived from Acts 1941, No. 319, § 5; 1945, No. 301, § 4; 1949, No. 451, § 4;

1979, No. 719, § 1; 1985, No. 413, § 1; A.S.A. 1947, § 80-1305; Acts 1995, No. 233, § 6; 1997, No. 804, § 1; 1999, No. 1078, §§ 66, 67; 2001, No. 1220, § 1.

6-17-915. Filing of personnel lists.

The ex officio financial secretary of each school district in the state shall file on or before October 1 of each year a list of all personnel, certified and noncertified, employed by the school district for the current year setting forth the annual salary of each and such other information as the State Board of Education may prescribe.

History. Acts 1941, No. 319, § 5; 1945, No. 301, § 4; 1949, No. 451, § 4; 1979, No. 719, § 1; A.S.A. 1947, § 80-1305.

CASE NOTES

Cited: Little Rock Sch. Dist. v. Pulaski County Special Sch. Dist., 597 F. Supp. 1220 (E.D. Ark. 1984).

6-17-916, 6-17-917. [Repealed.]

Publisher's Notes. These sections, concerning the determination of revenue available for teachers' salaries, applications for aid and the keeping of attendance reports, were repealed by Acts 1993, No. 294, § 11. They were derived from the following sources:

6-17-916. Acts 1941, No. 319, § 10; 1943, No. 136, § 6; 1945, No. 301, § 5; A.S.A. 1947, § 80-1308.

6-17-917. Acts 1941, No. 319, § 11; 1943, No. 136, § 7; 1945, No. 301, § 7; A.S.A. 1947, § 80-1309.

6-17-918. Issuing and countersigning warrants.

(a)(1) It shall be the duty of the school district superintendent of schools to serve as ex officio financial secretary.

(2) All warrants and checks shall be issued in accordance with the provisions of §§ 6-13-618(c) and 6-13-701(e).

(b) The school district superintendent shall neither issue nor countersign any warrants or checks until he or she has determined that the warrants have been issued in conformity with § 6-20-402, this subchapter, and other laws.

History. Acts 1941, No. 319, § 4; 1943, No. 136, § 3; 1947, No. 138, § 2; 1949, No. 451, § 3; 1959, No. 455, § 1; 1961, No. 63, § 1; 1973, No. 496, § 2; 1983, No. 402, § 1; A.S.A. 1947, § 80-1304; Acts 1993,

No. 294, § 11; 1995, No. 233, § 7; 1999, No. 1078, § 68; 2003, No. 671, § 2.

Effective Dates. Acts 1999, No. 1078, § 92: July 1, 2000.

CASE NOTES

Cited: Western Grove Sch. Dist. v. Strain, 288 Ark. 507, 707 S.W.2d 306 (1986).

6-17-919. Warrants void without valid certificate and contract.

(a) All warrants issued in payment of teachers' salaries are void unless:

(1)(A) The teacher is licensed to teach in the State of Arkansas by a license issued by the State Board of Education; or

(B) The public school district employing the teacher has other documentation from the Office of Professional Licensure of the Department of Education authorizing employment of the teacher under the conditions set forth by the department in the documentation;

(2) The teacher has been employed by a valid written contract; and

(3) Copies of such contract are on file in the office of the county treasurer or the school district treasurer if the school district has its own treasurer.

(b) The school district superintendent and the superintendent's surety shall be liable for any warrants that he or she countersigns in payment of teachers' salaries unless and until the state board has issued a valid license or the department has provided the documentation required by subdivision (a)(1)(B) of this section.

(c) The county treasurer, or the school district treasurer if the school district has its own treasurer, and his or her surety shall be liable for all warrants in payment of teachers' salaries that he or she pays unless and until there is a valid contract on file in his or her office.

History. Acts 1941, No. 319, § 4; 1959, No. 455, § 1; 1961, No. 63, § 1; 1973, No. 496, § 2; 1983, No. 402, § 1; A.S.A. 1947, § 80-1304; Acts 1993, No. 294, § 11; 1995, No. 233, § 8; 1995, No. 1296, § 20; 1999, No. 1078, § 69; 2007, No. 710, § 4.

Amendments. The 2007 amendment redesignated former (a)(1) as present (a)(1)(A); rewrote (a)(1)(A); added (a)(1)(B); in (b), inserted "or she" and

substituted "the state board has issued a valid license or the department has provided the documentation required by subdivision (a)(1)(B) of this section" for "there is a valid teacher's certificate and contract for the teacher on file with the county clerk"; and in (c), inserted "or her" twice and inserted "or she."

Effective Dates. Acts 1999, No. 1078, § 92: July 1, 2000.

CASE NOTES

ANALYSIS

Contract.
Liability of School Principal.
License.

Contract.

The requirement that teachers shall be employed by written contract is manda-

tory. Johnson v. Wert, 225 Ark. 91, 279 S.W.2d 274 (1955).

Teacher's rights were governed by contract and former statute, not by "an expectancy of continued employment" by school district. Corbin v. Special Sch. Dist., 250 Ark. 357, 465 S.W.2d 342 (1971).

Where neither the secretary of the board nor a majority of the members of the

board had signed principal's proposed renewal contract, no contract had been created. *Morton v. Hampton School Dist.*, 16 Ark. App. 264, 700 S.W.2d 373 (1985).

Liability of School Principal.

It cannot be held as a matter of law that this section and §§ 6-13-620 and 6-17-302 absolutely bar an action against a school principal for damages allegedly caused by his actions in excess of his authority. *Hart v. Bridges*, 30 Ark. App. 262, 786 S.W.2d 589 (1990).

License.

A teacher was not rendered ineligible to teach because, for a period before the

beginning of the school term between the time her old license expired and the time she received a new license, she had no valid license. *Wabbaseka School Dist. v. Johnson*, 225 Ark. 982, 286 S.W.2d 841 (1956).

Cited: *Shelton v. McKinley*, 174 F. Supp. 351 (E.D. Ark. 1959); *Freeman v. Gould Special Sch. Dist.*, 405 F.2d 1153 (8th Cir. 1969); *Jennings v. Dumas Pub. Sch. Dist.*, 763 F.2d 28 (8th Cir. 1985).

6-17-920. [Repealed.]

Publisher's Notes. This section, concerning examination of teachers' contracts; effect, was repealed by Acts 2007, No. 710, § 5. The section was derived

from Acts 1941, No. 319, § 6; 1943, No. 136, § 4; A.S.A. 1947, § 80-1306; Acts 1993, No. 294, § 11; 1995, No. 233, § 9; 1999, No. 1078, § 70.

6-17-921. [Repealed.]

Publisher's Notes. This section, concerning checking certain county treasurers' records, was repealed by Acts 1995, No. 233, § 21. The section was derived

from Acts 1941, No. 319, § 6; 1943, No. 136, § 4; 1949, No. 451, § 5; A.S.A. 1947, § 80-1306; Acts 1993, No. 294, § 11.

6-17-922. [Repealed.]

Publisher's Notes. This section, concerning checking certain districts' financial transactions, was repealed by Acts

1993, No. 294, § 11. The section was derived from Acts 1941, No. 319, § 6; 1943, No. 136, § 4; A.S.A. 1947, § 80-1306.

SUBCHAPTER 10 — MINIMUM SALARIES FOR TEACHERS

SECTION.

6-17-1001 — 6-17-1004. [Repealed.]

Publisher's Notes. Former §§ 6-17-1001 — 6-17-1005, concerning "The Teachers' Minimum Salary Law", were repealed by Acts 1989, No. 581, § 3. The former sections were derived from the following sources:

6-17-1001. Acts 1965, No. 163, § 1; A.S.A. 1947, § 80-1325.

6-17-1002. Acts 1965, No. 163, § 2; A.S.A. 1947, § 80-1326.

6-17-1003. Acts 1965, No. 163, § 2; A.S.A. 1947, § 80-1326.

6-17-1004. Acts 1965, No. 163, § 3; A.S.A. 1947, § 80-1327.

6-17-1005. Acts 1965, No. 163, § 4; A.S.A. 1947, § 80-1328.

Effective Dates. Acts 1995, No. 1194, § 38: July 1, 1995. Emergency clause provided: "It is hereby found and determined by the Eightieth General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1995 is

essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1995 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1995.”

Acts 2001, No. 1220, § 20: July 1, 2001. Emergency clause provided: “It is found and determined by the General Assembly that changes to the distribution of public school funds must take effect at the time that appropriations become effective and that to not do so would create confusion in the state’s public school districts. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 2001.”

Acts 2003 (2nd Ex. Sess.), No. 59, § 6, provided: “This act shall become effective on July 1, 2004.”

Acts 2003 (2nd Ex. Sess.), No. 74, § 4: Feb. 4, 2004. Emergency clause provided:

“It is found and determined by the General Assembly of the State of Arkansas that the Arkansas Supreme Court in Lake View School District No. 25 v. Huckabee, 351 Ark. 31 (2002) declared the current system of education to be unconstitutional because it is both inequitable and inadequate; and the Arkansas Supreme Court set forth the test for a constitutional system to be one in which the State has an ‘absolute duty’ to provide an ‘equal opportunity to an adequate education’; the Arkansas Supreme Court instructed the General Assembly to undertake actions as necessary to provide an opportunity for an adequate and equitable education for the children of Arkansas; and the provisions of this bill are necessary steps toward accomplishing that goal. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

RESEARCH REFERENCES

Am. Jur. 68 Am. Jur. 2d, Schools, § 129 et seq.

C.J.S. 78 C.J.S., Schools, § 218 et seq.

6-17-1001 — 6-17-1004. [Repealed.]

Publisher’s Notes. This subchapter, concerning minimum salaries for teachers, was repealed by Acts 2003 (2nd Ex. Sess.), No. 59, § 5, effective July 1, 2004, and 2003 (2nd Ex. Sess.), No. 74, § 3, effective February 4, 2004. The subchapter derived from the following sources:

6-17-1001. Acts 1989, No. 581, §§ 1, 2;

1991, No. 977, § 1; 1995, No. 917, § 8; 1995, No. 1194, § 24; 1997, No. 802, §§ 1-3; 1999, No. 1318, § 1; 1999, No. 1499, § 1; 2001, No. 1220, § 2; 2003, No. 1768, § 1.

6-17-1002. Acts 1991, No. 977, § 1.

6-17-1003. Acts 1991, No. 977, § 1.

6-17-1004. Acts 1999, No. 1499, § 2.

SUBCHAPTER 11 — INSURANCE

SECTION.

- 6-17-1101 — 6-17-1108. [Repealed.]
 6-17-1109. Life and disability insurance
 — Notice, evaluation, and
 approval of bid proposals.
 6-17-1110. [Repealed.]
 6-17-1111. Life and disability insurance
 — Employee eligibility —
 Allocation of costs.
 6-17-1112. Life and disability insurance
 — Members of retirement
 systems.

SECTION.

- 6-17-1113. School Worker Defense Pro-
 gram.
 6-17-1114. Cooperation.
 6-17-1115. Group disability insurance for
 independent school dis-
 tricts.
 6-17-1116. School bus drivers.
 6-17-1117. Health insurance.
 6-17-1118. School Worker Defense Pro-
 gram Advisory Board.

A.C.R.C. Notes. References to "this subchapter" in §§ 6-17-1109 and 6-17-1111 — 6-17-1115 may not apply to §§ 6-17-1116 — 6-17-1118, which were enacted subsequently.

Effective Dates. Acts 1977, No. 834, § 17: Mar. 28, 1977. Emergency clause provided: "It is hereby found and determined by the General Assembly that it is essential that the State of Arkansas offer and provide insurance programs that will effectively serve the needs of public school employees; that such insurance programs are of great assistance in recruiting permanent personnel for the various school districts; that a program of this nature would greatly enhance the morale and well-being of the employees of public school districts; that many school districts are too small to qualify for 'group insurance programs'; that such a program will benefit school employees to a degree much greater than the cost to the State; and that the Committee established herein will need several months to develop and implement such a program. Therefore, an emergency is hereby declared to exist and this Act, being necessary for the immediate preservation of the public peace, health, and safety, shall be in full force and effect from and after the date of its passage and approval."

Acts 1983, No. 566, § 3: July 1, 1983.

Acts 1985 (1st Ex. Sess.), No. 10, § 2: June 22, 1985. Emergency clause provided: "It is hereby found and determined by the General Assembly that the medical hospitalization insurance program established by law for teachers in this State and their dependents needs clarification

in order to enable such dependents who are receiving benefits from the Teacher Retirement System to continue to receive coverage under such insurance group upon the death of the active member of the System on whose policy they were receiving group insurance coverage; and that the immediate passage of this Act is necessary to clarify the laws governing such group insurance programs to accomplish such purpose. Therefore, an emergency is hereby declared to exist, and this Act being immediately necessary for the preservation of the public peace, health, and safety, shall be in full force and effect from and after its passage and approval."

Acts 1985 (1st Ex. Sess.), No. 19, § 2: June 26, 1985. Emergency clause provided: "It is hereby found and determined by the General Assembly that the medical hospitalization insurance program established by law for teachers in this State and their dependents needs clarification in order to enable such dependents who are receiving benefits from the Teacher Retirement System to continue to receive coverage under such insurance group upon the death of the active member of the System on whose policy they were receiving group insurance coverage; and that the immediate passage of this Act is necessary to clarify the laws governing such group insurance programs to accomplish such purpose. Therefore, an emergency is hereby declared to exist, and this Act being immediately necessary for the preservation of the public peace, health, and safety, shall be in full force and effect from and after its passage and approval."

Acts 1987, No. 632, § 2: Apr. 4, 1987. Emergency clause provided: "It is hereby

found and determined by the General Assembly that the medical hospitalization insurance program established by law for public school employees in this State needs clarification to determine the eligibility of employees to participate in the program; and that the immediate passage of this Act is necessary to clarify the laws governing such group insurance program to accomplish such purpose. Therefore, an emergency is hereby declared to exist, and this Act being immediately necessary for the preservation of the public peace, health, and safety, shall be in full force and effect from and after its passage and approval."

Acts 1991, No. 276, § 5: Feb. 28, 1991. Emergency clause provided: "It is hereby found and determined by the General Assembly of the State of Arkansas that throughout the state some confusion has arisen concerning the establishment of the self-insurance fund for civil liability of certain school employees; that the immediate enactment of this bill upon its passage is necessary to clarify the intent of this fund. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health, and safety, shall be in full force and effect from and after its passage and approval."

Acts 1993, No. 855, § 8: Apr. 2, 1993. Emergency clause provided: "It is hereby found and determined by the General Assembly of the State of Arkansas that the current law relating to the Public School Employees Insurance Program are in need of revision to protect the soundness of the program and there is an urgent need to reconstitute the Advisory Committee to assure that various interests are represented on the Committee; and that this act is designed to effectuate such urgently needed changes and should be given effect immediately. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health, and safety, shall be in full force and effect from and after its passage and approval."

Acts 1995, No. 1194, § 38: July 1, 1995. Emergency clause provided: "It is hereby found and determined by the Eightieth General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of

this Act on July 1, 1995 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1995 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1995."

Acts 1997, No. 1012, § 12: Apr. 2, 1997. Emergency clause provided: "It is found and determined by the General Assembly that the immediate passage of this Act is necessary for the establishment of a registered volunteers program whereby local school districts can utilize the services of qualified volunteers in certain extracurricular and interscholastic activities and that any delay will cause irreparable harm to those students who will be unable to participate in extracurricular and interscholastic activities during the current school year and each year thereafter because school districts cannot afford to pay certified teachers to sponsor the activities or there are no certified teachers available to act as sponsors. Therefore, an emergency is declared to exist and this Act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 2001, No. 1745, § 2: July 1, 2001. Emergency clause provided: "It is found and determined by the General Assembly that the state of Arkansas is experiencing a critical shortage of teachers; that the critical shortage is caused in part by non-competitive salaries and benefits for teachers in Arkansas; and that the state is facing a pressing need to improve benefits for teachers prior to the beginning of the 2001-2002 school year. Therefore, an emergency is declared to exist and this act

being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 2001."

Act 2005, No. 1842, § 2: July 1, 2005. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the cost of insurance coverage can be an impediment to teachers pursuing a career in the public school system; that school districts more easily recruit and maintain quality teachers if health insurance benefits are improved; and that this act will provide such necessary improvements to current benefits coinciding with the beginning of the fiscal year and school year. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2005."

Acts 2006 (1st Ex. Sess.), Nos. 24 and 25, § 2: Apr. 11, 2006. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the Arkansas Supreme Court declared the public school funding system to be inadequate and that the public schools are operating under a constitutional infirmity which must be corrected immediately; that to correct the constitutional infirmity and to ensure adequate funding for public education, the General Assembly should act to reduce the disparity in health insurance benefits within a school district; and that this act is necessary to allow school districts sufficient time to make all necessary adjustments. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2007, No. 229, § 32: July 1, 2007. Emergency clause provided: "It is found and determined by the General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 2007 is essential to the operation of the

agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 2007 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 2007."

Acts 2007, No. 306, § 2: Mar. 16, 2007. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that classified employees in public school districts who receive higher employer contribution rates than certified employees of the school district may suffer an unintended reduction in the employer contributions for their public school employees' health insurance benefits under the application of current law; that this act remedies the unintended consequence of prior law and protects the employer contribution rate for those classified employees until a higher rate is paid to certified employees; and that this act is immediately necessary to establish the earliest possible date for the protection of these benefits. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2007, No. 1420, § 42: July 1, 2007. Emergency clause provided: "It is found and determined by the General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 2007 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 2007 could work irreparable harm upon the proper adminis-

tration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate

preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 2007."

6-17-1101 — 6-17-1108. [Repealed.]

A.C.R.C. Notes. The repeal of § 6-17-1103 by Acts 1995, No. 1206 has been deemed to repeal its amendment by Acts 1995, No. 1296. Acts 1995, No. 1296, § 21, amended § 6-17-1103(c) to read as follows:

"(c) The term of office shall commence on the day following the expiration of the then-incumbent's term and shall end on the day preceding commencement of his successor's term of office five (5) years hence."

Pursuant to § 1-2-207, the amendment to § 6-17-1108 by Acts 1995, No. 782, § 1, was superseded by the repeal of this section by Acts 1995, No. 1206, § 9.

Publisher's Notes. Section 6-17-1101, concerning the supervisor of the Public School Employees Insurance Section, was repealed by Acts 1995, No. 1206, § 9. The section was derived from Acts 1977, No. 834, §§ 6, 8; A.S.A. 1947, §§ 80-5106, 80-5108.

Section 6-17-1102, concerning the Public School Insurance Advisory Committee,

was deemed to be repealed by Acts 1995, No. 1206, § 9. The section was derived from Acts 1977, No. 834, § 1; A.S.A. 1947, § 80-5101.

Sections 6-17-1103 — 6-17-1108, concerning committee members; committee organization; meetings and hearings; rules, reports, etc; appointment of subcommittees; powers and duties, were repealed by Acts 1995, No. 1206, § 9. They were derived from the following sources:

6-17-1103. Acts 1977, No. 834, §§ 2-5; A.S.A. 1947, §§ 80-5102 — 80-5105; Acts 1993, No. 855, § 1; 1995, No. 1296, § 21.

6-17-1104. Acts 1977, No. 834, § 7; A.S.A. 1947, § 80-5107.

6-17-1105. Acts 1977, No. 834, § 7; A.S.A. 1947, § 80-5107.

6-17-1106. Acts 1977, No. 834, § 7; A.S.A. 1947, § 80-5107.

6-17-1107. Acts 1977, No. 834, § 7; A.S.A. 1947, § 80-5107.

6-17-1108. Acts 1977, No. 834, § 9; A.S.A. 1947, § 80-5109; Acts 1993, No. 855, § 2; 1995, No. 782, § 1.

6-17-1109. Life and disability insurance — Notice, evaluation, and approval of bid proposals.

(a) Before selecting any policy or entering into any agreement with an insurance company for the providing of life or disability insurance for public school employees as authorized in this subchapter, the committee shall publicize, by inserting in one (1) or more newspapers having a general circulation in the State of Arkansas, notice that bid proposals for the providing of life or disability insurance for public school employees will be received by the committee on the date and at the place stated in the notice.

(b) Such notice shall be published by two (2) insertions, with the first insertion to be at least thirty (30) days prior to the date for receiving bids, with the second insertion to be not later than two (2) weeks prior to the date for receiving bids.

(c) At the time and place established in the notice for receiving bid proposals, the committee shall, in a public meeting, open all bids, and all bids so opened shall be made available for public inspection.

(d) Each bid proposal shall be evaluated in accordance with the uniform criteria established by the Insurance Commissioner for evalu-

ating benefits in relation to premiums to be charged therefor, and the committee shall also make a determination that each insurance company submitting a bid meets the minimum standards for financial solvency and ability to provide services as promulgated by the commissioner.

(e) After reviewing all bids, the committee may approve the policy proposal with the insurance company which the committee determines has submitted the bid with the best benefit coverage in relation to the premiums to be paid, as the committee determines to be in the best interest of the public school employees' life or disability program.

(f) A bid contract shall be for a minimum of five (5) years.

(g) However, the committee may reject any and all bids and readvertise for bids in the manner herein set forth.

History. Acts 1977, No. 834, § 10; A.S.A. 1947, § 80-5110; Acts 1993, No. 855, § 3.

Publisher's Notes. Acts 1993, No. 855, § 4, provided: "The provisions of this act shall be effective July 1, 1993, and the terms of all current members of the Public

School Employees Insurance Advisory Committee shall expire on that date, and the members of the Committee as reconstituted by this act shall be appointed by the Governor for terms beginning on July 1."

6-17-1110. [Repealed.]

Publisher's Notes. This section, concerning life and disability insurance and payment of premiums from state and local funds, was repealed by Acts 1995, No.

1206, § 9. The section was derived from Acts 1977, No. 834, § 11; A.S.A. 1947, § 80-5111.

6-17-1111. Life and disability insurance — Employee eligibility — Allocation of costs.

Eligible employees shall include:

(1) All certified employees in public schools who are normally expected to work nine hundred (900) hours or more per year, whose salaries are paid from the school district's teacher salary fund, and all other employees of public schools who are normally expected to work nine hundred (900) hours or more per year and whose salaries are paid from the school district's local or state revenue;

(2)(A) All other employees of the school district whose salaries are not paid from the school district's local or state revenues, provided these employees are certified or they are normally expected to work nine hundred (900) hours or more per year.

(B) The employing school district is required to pay the same amount per month for these employees as the General Assembly appropriates for employees in subdivision (1) of this section.

(C) The committee is authorized to establish the manner in which this payment is to be made, provided such manner of payment shall not be in violation of any other law, rule, or regulation governing the school district.

(3) In the event that an employee shall draw part of his or her salary from the school district's local or state revenue and part of his or her salary from another fund administered by the school district, the employer's share of the cost of his or her insurance shall be prorated between the provisions of subdivisions (1) and (2) of this section.

History. Acts 1977, No. 834, § 12; 1983, No. 321, § 1; A.S.A. 1947, § 80-5112; Acts 1987, No. 632, § 1.

6-17-1112. Life and disability insurance — Members of retirement systems.

(a) Members of the Arkansas Teacher Retirement System and the Arkansas Public Employees' Retirement System who have rendered, or shall render, service as employees of the public schools who hereafter retire and receive retirement benefits under such systems shall be eligible to participate in the group insurance program instituted pursuant to the provisions of this subchapter and other laws enacted to implement such programs, provided that such persons are participating in the group insurance program at the time of retirement.

(b) In addition, upon the death of an active member or a retired member of the Arkansas Teacher Retirement System, the survivors of such member who are eligible for an annuity under the system and who were covered on the active member's policy at the time of death shall have the option of continuing to be a member of such insurance group at the prevailing rates established for members of the Arkansas Teacher Retirement System, upon application for such coverage. However, persons drawing retirement benefits under the Arkansas Teacher Retirement System and the Arkansas Public Employees' Retirement System who wish to participate or continue to participate in the group insurance program provided for herein shall pay the full amount of the premium or cost of the policy, and such premium or cost shall be deducted from the retirement benefit checks of such participants.

History. Acts 1977, No. 834, § 12; 1985 (1st Ex. Sess.), No. 10, § 1; 1985 (1st Ex. Sess.), No. 19, § 1; A.S.A. 1947, § 80-5112.

Cross References. Public employees' retirement, § 24-4-101 et seq.
Teachers' retirement, § 24-7-201 et seq.

6-17-1113. School Worker Defense Program.

(a) The Department of Education is authorized and directed to establish a School Worker Defense Program for the protection of:

- (1) Education service cooperatives;
- (2) Education service cooperative board members;
- (3) School districts;
- (4) School board members;
- (5) School treasurers and bookkeepers;
- (6) School nurses;
- (7) School secretaries;

- (8) Substitute teachers;
- (9) Authorized volunteers;
- (10) Volunteers in a registered volunteers program;
- (11) School custodians;
- (12) Food service workers employed by public schools;
- (13) Bus drivers and mechanics employed by public schools;
- (14) Maintenance personnel employed by public schools;
- (15) Each employee of:
 - (A) A public school district;
 - (B) The Arkansas School for Mathematics, Sciences, and the Arts;
 - (C) The Arkansas School for the Deaf; and
 - (D) The Arkansas School for the Blind,who is required to hold a teaching certificate issued by the department;
- (16) Each teacher's aide and each student teacher:
 - (A) In a public school district;
 - (B) In the Arkansas School for Mathematics, Sciences, and the Arts;
 - (C) In the Arkansas School for the Deaf; or
 - (D) In the Arkansas School for the Blind; and
- (17) Each member of the dormitory staff of:
 - (A) The Arkansas School for Mathematics, Sciences, and the Arts;
 - (B) The Arkansas School for the Deaf; or
 - (C) The Arkansas School for the Blind,

against civil liability, attorney's fees, and costs of defense for acts or omissions of each employee or volunteer in the performance of his or her duties as a volunteer or his or her official duties as a school employee, including civil liability for administering corporal punishment to students, in the amount of two hundred fifty thousand dollars (\$250,000) for incidents which occurred prior to July 1, 1999, and one hundred fifty thousand dollars (\$150,000) for each incident which occurs after June 30, 1999.

(b)(1) The program is further authorized to provide limited financial reimbursement not to exceed five thousand dollars (\$5,000) for attorney's fees and costs for the defense of criminal charges if the covered person is exonerated by a court of law or if all charges are subsequently withdrawn or dismissed unless such withdrawal or dismissal is conditioned upon termination of employment.

(2) The School Worker Defense Program Advisory Board may authorize reimbursement under this subsection (b) in excess of five thousand dollars (\$5,000) in matters that the advisory board finds to require extraordinary attorney's fees and costs.

(c)(1) The cost of the program shall be paid annually out of funds in the Public School Fund that are designated for that specific purpose.

(2) Any school districts previously covered by or moneys expended pursuant to the self-insurance program of the department or the School Worker Defense Program shall be deemed a proper expenditure of state funds.

(d) The investigation of any incident or the defense of any protected person does not waive or forfeit any immunity or authorization to

provide for hearing and settling claims extended to educational entities and their personnel by the laws of the State of Arkansas.

(e)(1) The defense fund and protection program authorized in this section shall be a part of and administered by the department.

(2) The department shall adopt appropriate rules and regulations necessary to carry out the purposes of this section.

(f) Any person entitled to payment under the program may appeal the decision of the department to the advisory board.

History. Acts 1977, No. 585, §§ 1, 2, 4; 1993, No. 355, § 1; 1997, No. 948, § 1; 1983, No. 566, § 1; A.S.A. 1947, §§ 80-113.1 — 80-113.3; Acts 1987, No. 612, § 1; 1997, No. 1012, § 7; 1997, No. 1305, § 1; 1989, No. 274, § 1; 1991, No. 276, § 1; 1999, No. 540, § 1.

RESEARCH REFERENCES

U. Ark. Little Rock L.J. Survey—Insurance, 10 U. Ark. Little Rock L.J. 587.

CASE NOTES

Negligent Acts.

This section authorizes and directs the Arkansas Department of Education to establish a self-insurance fund or procure insurance policies to insure school district employees against acts or omissions from which they have not traditionally been immune, i.e., civil rights claims under federal legislation and intentional or malicious acts or omissions. Therefore, the Arkansas Department of Education was not statutorily required to insure against

the negligent acts of school district employees. *Waire v. Joseph*, 308 Ark. 528, 825 S.W.2d 594 (1992).

This section does not require the procurement of insurance for acts of negligence. *Deutsch v. Tillery*, 309 Ark. 401, 833 S.W.2d 760 (1992).

Cited: *Doe v. Baum*, 348 Ark. 259, 72 S.W.3d 476 (2002); *Helena-West Helena Sch. Dist. v. Monday*, 361 Ark. 82, 204 S.W.3d 514 (2005).

6-17-1114. Cooperation.

It shall be the duty of the committee, the Supervisor of the Public School Employees Insurance Section and the insurance section employees, the Department of Education, and of each public school district and the officers and employees respectively thereof:

(1) To cooperate with each other, whenever called upon to do so, in all such reasonable ways as will assist or further the objectives of the committee by making available records and statistical or other data or information to provide legal and actuarial advice; and

(2) If required, to occasionally make available the services of officers and employees.

History. Acts 1977, No. 834, § 13; A.S.A. 1947, § 80-5113.

6-17-1115. Group disability insurance for independent school districts.

(a) The employees of any independent school district may be insured under a group disability insurance policy issued to any independent school district to insure the employees of any independent school district for the benefit of the employees of any independent school district subject to the following requirements:

(1) The employees eligible for insurance under the group disability insurance policy shall all be employees of the school district or all of any class determined by conditions pertaining to their employment;

(2) The premium for the policy shall be paid by the policyholder from funds contributed wholly by the insured employees, except that:

(A) The employer may deduct from the employees' salaries the required contributions for the premiums when authorized in writing by the respective employees to do so; and

(B) The premium for the policy may be paid for the policyholder wholly or partly from funds of the school district.

(b) As used in this section, "group disability insurance" shall be defined by § 23-86-106.

History. Acts 1971, No. 99, §§ 1, 2;
A.S.A. 1947, §§ 80-465, 80-466.

6-17-1116. School bus drivers.

(a) For the purposes of this section, a full-time school bus driver is:

(1) A person who contracts with a public school district to operate a school bus for at least seven hundred twenty (720) hours during the school year;

(2) A person whose primary source of income during the school year is obtained by operating a school bus for a public school district; or

(3) A person who contracts with a public school district to operate a school bus and is designated by the superintendent as a full-time school bus driver, regardless of the number of hours for which the person contracted.

(b) All full-time school bus drivers who are not under current law eligible to participate in the public school employees insurance program provided for by §§ 6-17-1109 and 6-17-1111 — 6-17-1115 shall hereafter be eligible to participate in the program provided that they pay all costs associated with participating in the program unless the employing school district opts to pay all or a portion of that cost.

History. Acts 1991, No. 736, §§ 1, 2; subchapter" in §§ 6-17-1109 — 6-17-1115
2001, No. 321, § 1; 2001, No. 1253, § 1. may not apply to this section which was
A.C.R.C. Notes. References to "this enacted subsequently.

6-17-1117. Health insurance.

(a) Beginning on October 1, 2004, local school districts shall pay the health insurance contribution rate of one hundred thirty-one dollars (\$131) per month for each eligible employee electing to participate in the public school employees' health insurance program.

(b)(1)(A) The Department of Education shall pay the Employee Benefits Division of the Department of Finance and Administration a minimum of sixty-one dollars (\$61.00) per month for each eligible employee electing to participate in the public school employees' health insurance program administered by the State and Public School Life and Health Insurance Board.

(B) The Department of Education shall make the total contributions under subdivision (b)(1)(A) of this section by transferring thirty-five million dollars (\$35,000,000) to the division in eleven (11) equal monthly installments.

(2) The funds provided to the division under this subsection shall be administered by the board for the benefit of the employee participants of the public school employees' health insurance program.

(3)(A) In the event that appropriation or funding is not provided, the department shall not be responsible for the increased payments for the public school employees' health insurance program as established by this section.

(B) If funding and appropriation are provided but are inadequate for the total number of employees electing to participate in the public school employees' health insurance program, the department shall pay a proportional share on behalf of each participant.

(C) If funding and appropriation are provided and exceed the amount needed to make the minimum contribution under subdivision (b)(1)(A) of this section, the department shall pay a proportional share of the excess on behalf of each participant.

(c)(1) A school district shall:

(A) Provide the same employer-provided health insurance benefits for all full-time school district employees; and

(B) Pay the same employer contribution rate for each eligible employee electing to participate in the public school employees' health insurance program.

(2) If a school district entered into a contract with a superintendent, teacher, or other personnel prior to April 11, 2006, and the contract provides for a higher employer contribution rate than is paid for a majority of the certified personnel in the school district, then the school district may continue to pay the higher contribution rate as provided under the existing contract but not under extensions, addendums, or new contracts created after April 11, 2006, without increasing all other employees to the same rate.

(3) Any school district that entered into contracts with classified personnel prior to July 31, 2007 and the contracts provided for a higher employer contribution funding amount than is paid for certified per-

sonnel in the school district shall freeze the employer contribution funding amount for classified employees until such time as the funding amount contributed for certified personnel equals or exceeds the funding amount provided for classified employees.

History. Acts 1995, No. 1194, § 14; 2001, No. 1745, § 1; 2005, No. 1842, § 1; 2006 (1st Ex. Sess.), No. 24, § 1; 2006 (1st Ex. Sess.), No. 25, § 1; 2007, No. 229, § 28; 2007, No. 306, § 1; 2007, No. 1009, § 18; 2007, No. 1420, § 32.

A.C.R.C. Notes. References to “this subchapter” in §§ 6-17-1109 — 6-17-1116 may not apply to this section which was enacted subsequently.

As enacted, this section ended: “Furthermore, beginning with the 1996-97 fiscal year, the appropriation contained herein for Public School Employee Insurance shall be used to provide the state contribution for insurance premiums for employees of the Cooperative Education Services Areas, Vocational Centers and the school operated by the Department of Correction.”

Amendments. The 2005 amendment

deleted former (a) and (b); redesignated former (c) as present (a); and added present (b).

The 2006 (1st Ex. Sess.) amendment by identical acts Nos. 24 and 25 added (c).

The 2007 amendment by No. 229 deleted former (b)(3)(B) relating to transfers.

The 2007 amendment by No. 306 added (c)(3).

The 2007 amendment by No. 1009 deleted “of a public school district” following “employee” in (b)(1); redesignated former (b)(3)(A)(i) and (b)(3)(A)(ii) as present (b)(3)(A) and (b)(3)(B); and deleted former (b)(3)(B).

The 2007 amendment by No. 1420 added (b)(1)(B) and (3)(C) and made related changes; and inserted “a minimum of” in (b)(1)(A).

6-17-1118. School Worker Defense Program Advisory Board.

(a) The School Worker Defense Program Advisory Board is created. The advisory board shall be composed of seven (7) members as follows:

(1) The Executive Director of the Arkansas Association of Educational Administrators or his or her designee;

(2) The President of the Arkansas Rural Education Association or his or her designee;

(3) The Executive Director of the Arkansas School Boards Association or his or her designee;

(4) The Executive Director of the Arkansas Education Association or his or her designee;

(5) The designee of the Attorney General;

(6) The Director of the Department of Finance and Administration or his or her designee; and

(7)(A) The Commissioner of Education or his or her designee.

(B) Provided, however, no employee of the Department of Education who is charged with administering the defense fund and protection program shall be eligible to serve as the designee of the commissioner.

(b) Members of the advisory board shall biannually elect a chair, a vice chair, and a secretary from the membership of the advisory board, whose duties shall be those customarily exercised by those officers or specifically designated by the advisory board.

(c)(1) The advisory board shall meet within the State of Arkansas and may meet as often as it deems necessary for the purpose of carrying out its duties under the provisions of this section.

(2) A majority of the members of the advisory board shall constitute a quorum for the purpose of a meeting.

(d)(1) The advisory board shall have final authority to hear and adjudicate any appeal filed by a school worker for protection against liability pursuant to § 6-17-1113.

(2) In an emergency situation, the chair of the advisory board may approve payment of a claim without a meeting of the advisory board.

(e)(1) The department may promulgate rules and regulations as necessary for the proper administration of this section to establish an advisory board.

(2) The department shall provide support staff for the advisory board.

History. Acts 1999, No. 540, § 2.

A.C.R.C. Notes. As enacted, subsection (b) also provided: "The Director of the Department of Education shall call an organizational meeting of the board and

preside as chairman until officers are selected."

References to "this subchapter" in §§ 6-17-1101 — 6-17-1117 may not apply to this section which was enacted subsequently.

SUBCHAPTER 12 — TEACHERS' MINIMUM SICK LEAVE LAW

SECTION.

- 6-17-1201. Title.
- 6-17-1202. Definitions.
- 6-17-1203. Policies and regulations.
- 6-17-1204. Amount and use of leave.
- 6-17-1205. Record of used and accumulated leave.
- 6-17-1206. Credit for leave accumulated in another school district.

SECTION.

- 6-17-1207. Payment for unused leave.
- 6-17-1208. Authority to liberalize policy.
- 6-17-1209. Leave of absence for personal injury from assault or other violent criminal act.

Effective Dates. Acts 1975, No. 177, § 2: Feb. 18, 1975. Emergency clause provided: "It is hereby found and determined by the General Assembly that a number of schoolteachers who move from the district where they were formerly employed and accept employment in another school district often lose credit for accumulated sick leave in the school district of former employment, which imposes undue hardship upon the teacher in the new school district, and that it is essential to the efficient operation of the public schools in this

State that public schoolteachers employed in this State shall not lose credit for accumulated sick leave when said teachers move or transfer to another school district, and that the immediate passage of this Act is necessary to correct this situation. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the immediate preservation of the public peace, health, and safety, shall be in full force and effect from and after its passage and approval."

6-17-1201. Title.

The title of this subchapter shall be "The Teachers' Minimum Sick Leave Law".

History. Acts 1971, No. 137, § 1; 1975, No. 386, § 1; A.S.A. 1947, § 80-1249.

6-17-1202. Definitions.

As used in this subchapter:

(1) "Accumulated sick leave" means the total number of days of unused sick leave that a teacher has to his or her credit;

(2) "Immediate family" means the teacher's:

(A) Spouse;

(B) Child;

(C) Parent; or

(D) Any other relative if the other relative lives in the same household as the teacher;

(3) "Sick leave" means absence with full pay from one's duties in a public school for personal illness or illness in one's immediate family, except for an absence due to personal injury resulting from either an assault or other violent criminal act as provided in this subchapter; and

(4) "Teacher" means any full-time employee of a local school district who is compelled by law to secure a license from the State Board of Education as a condition precedent to employment.

History. Acts 1971, No. 137, § 2; 1975, No. 386, § 1; A.S.A. 1947, § 80-1250; Acts 1993, No. 1115, § 1; 2005, No. 1195, § 1.

Amendments. The 2005 amendment

deleted "spouse, children, parents, and any other relatives living in the same household" from the end of (2); and added (2)(A)-(D).

6-17-1203. Policies and regulations.

(a) The board of directors of each school district shall adopt written policies for the administration of sick leave.

(b) These policies and regulations shall be a part of the written personnel policies of each school district, and a copy shall be furnished to each teacher.

History. Acts 1971, No. 137, § 6; 1975, No. 386, § 1; A.S.A. 1947, § 80-1254.

6-17-1204. Amount and use of leave.

(a) Each school district in the state shall provide sick leave for each of its teachers at a minimum rate of one (1) day per month or major portion thereof that the teacher is contracted, at full pay.

(b) Such leave shall be in force beginning with the first day of the first school term for which each teacher is employed.

(c) If a teacher resigns or leaves his or her teaching position for any reason before the end of the school term, the employing school district

may deduct from his or her last paycheck full compensation for any days of sick leave used in excess of the number of days earned.

(d) A teacher shall be entitled to sick leave only for reasons of personal illness or illness in his or her immediate family.

History. Acts 1971, No. 137, § 3; 1975, No. 386, § 1; A.S.A. 1947, § 80-1251.

6-17-1205. Record of used and accumulated leave.

(a) A record of sick leave used and accumulated shall be established and maintained by each school district for each of its teachers.

(b) Sick leave that is unused by a teacher during any school year shall be accumulated in that teacher's sick leave account at a rate of one (1) day per month or major portion thereof employed until ninety (90) days have been accumulated.

(c) A teacher who qualifies for sick leave under § 6-17-1204 may use any amount up to his or her total number of accumulated days.

(d) Accumulated days of sick leave that are used up may be restored up to ninety (90) days in the same manner that they were first accumulated.

History. Acts 1971, No. 137, § 4; 1975, No. 386, § 1; A.S.A. 1947, § 80-1252; Acts 1989, No. 818, § 1.

6-17-1206. Credit for leave accumulated in another school district.

(a) Whenever an employee of a school district, an education service cooperative, a state education agency, or a two-year college in this state shall leave the school district, education service cooperative, state education agency, or two-year college and accept employment in another school district in this state, education service cooperative, state education agency, or two-year college, the employee shall be granted credit by the new school district, education service cooperative, state education agency, or two-year college for any unused sick leave accumulated by the employee while employed by the former school district but not to exceed a maximum of ninety (90) days.

(b) The accumulated and unused sick leave credit shall be granted to the employee upon furnishing proof in writing from the school district of former employment of the employee.

(c) The provisions of this section shall apply to employment with another school district, education service cooperative, state education agency, or two-year college on or after July 1, 1997.

History. Acts 1975, No. 177, § 1; A.S.A. 1947, § 80-1252.1; Acts 1987, No. 259, § 1; 1989, No. 818, § 2; 1991, No. 834, § 3; 1999, No. 774, § 1; 2007, No. 617, § 10.

Amendments. The 2007 amendment substituted "education service cooperative" for "educational cooperative" four times in (a) and once in (c).

6-17-1207. Payment for unused leave.

Payment for unused sick leave shall be made from the salary fund of the school district, and these moneys shall be included in meeting the annual requirements for payment of teachers' salaries.

History. Acts 1979, No. 1016, § 1; A.S.A. 1947, § 80-1253.

CASE NOTES**In General.**

This subchapter repealed the prior prohibition against paying teachers for unused sick leave, but did not require it or dictate the circumstances under which payment is made; instead, it merely per-

mits such payments and establishes their source, if they are made. *Turnbough v. Mammoth Spring Sch.*, 74 Ark. App. 107, 45 S.W.3d 430 (2001), *aff'd*, 349 Ark. 341, 78 S.W.3d 89 (Ark. 2002).

6-17-1208. Authority to liberalize policy.

The number of days of sick leave provided by this subchapter are minimums only, and nothing in this subchapter shall prohibit any school district from providing more days of sick leave or from having a more liberal policy for the administration of sick leave, including, but not limited to, the establishment of sick leave pools or banks and allowing school district employees who are husband and wife to each utilize the other's accumulated sick leave.

History. Acts 1971, No. 137, § 7; 1975, No. 386, § 1; A.S.A. 1947, § 80-1255; Acts 1989, No. 791, § 1; 1999, No. 40, § 1.

6-17-1209. Leave of absence for personal injury from assault or other violent criminal act.

(a)(1)(A) Whenever a schoolteacher is absent from his or her duties in a public school as a result of personal injury caused by either an assault or a criminal act committed against the teacher in the course of his or her employment, the teacher shall be granted a leave of absence from school with full pay for up to one (1) year from the date of the injury.

(B) Teachers who suffer personal injury while intervening in student fights, restraining a student or protecting a student from harm shall be considered to be injured as a result of an assault or a criminal act.

(2) The leave of absence for personal injury from an assault or a criminal act shall not be charged to the teacher's sick leave authorized under this subchapter.

(b) The board of directors of each school district shall adopt written policies for the implementation of this section and incorporate them as part of the written personnel policies of the school district.

History. Acts 1993, No. 1115, § 2; 1999, No. 1494, § 1.

CASE NOTES

ANALYSIS

Damages.
Incorporation of Policies.
Personal Injury.
Private Right of Action.
Waiver.

Damages.

The trial court erred in deducting a teacher's retirement disability pay from her award under this section as the teacher clearly lacked the ability to work at all, much less obtain other employment, and her retirement disability payments were not paid by the school district, but by a third party, the Arkansas Teacher Retirement System. *Moore v. Pulaski County Special Sch. Dist.*, 73 Ark. App. 366, 43 S.W.3d 204 (2001).

Appellate court affirmed a workers' compensation award which held that a school district and its insurer were not entitled to a credit for any potential benefits the deceased's wife could receive in a lawsuit as there was no evidence that an award had been made pursuant to this section. *Dollarway Sch. Dist. v. Lovelace*, 90 Ark. App. 145, 204 S.W.3d 64 (2005).

Incorporation of Policies.

A general savings clause in a professional negotiations agreement was not sufficient to comply with subsection (b) where the savings clause merely stated,

"The parties agree that state and federal statutes and court orders are incorporated into this Agreement." *Moore v. Pulaski County Special Sch. Dist.*, 73 Ark. App. 366, 43 S.W.3d 204 (2001).

Personal Injury.

A teacher sustained a personal injury within the meaning of this section where she testified that she developed hypertension that caused her to faint, in addition to depression, post-traumatic stress disorder, anxiety, and mental confusion. *Moore v. Pulaski County Special Sch. Dist.*, 73 Ark. App. 366, 43 S.W.3d 204 (2001).

Private Right of Action.

This section gives a teacher a private right of action. *Moore v. Pulaski County Special Sch. Dist.*, 73 Ark. App. 366, 43 S.W.3d 204 (2001).

Waiver.

A teacher did not waive her right to recover damages under this section by voluntarily resigning from her employment, where the evidence showed that she had no knowledge of her rights under this section until long after she had used up her sick leave and had taken disability retirement and that the defendant took no action to inform the teacher of those rights. *Moore v. Pulaski County Special Sch. Dist.*, 73 Ark. App. 366, 43 S.W.3d 204 (2001).

SUBCHAPTER 13 — SCHOOL EMPLOYEES' MINIMUM SICK LEAVE LAW

SECTION.

6-17-1301. Title.
6-17-1302. Definitions.
6-17-1303. Policies and regulations.
6-17-1304. Amount and use of leave.
6-17-1305. Record of used and accumulated leave.

SECTION.

6-17-1306. Authority to liberalize policy.
6-17-1307. Unused leave — Credit.
6-17-1308. Absence due to injury from assault.

6-17-1301. Title.

The title of this subchapter is "The School Employees' Minimum Sick Leave Law".

History. Acts 1979, No. 391, § 1; A.S.A. 1947, § 80-1255.1.

6-17-1302. Definitions.

As used in this subchapter, unless the context otherwise requires:

(1) "Accumulated sick leave" means the total number of days of unused sick leave that a school employee has to his or her credit;

(2) "Immediate family" includes the employee's spouse, children, parents, and any other relatives in the same household;

(3) "School employee" includes any employee of a school district who works not less than twenty (20) hours per week and who is not compelled by law to secure a teaching license from the State Board of Education as a condition precedent to employment. This subchapter covers those employees who are normally and usually designated as noncertified employees; and

(4) "Sick leave" means absence with full pay from one's duties in a public school for the reason of personal illness or illness in his or her immediate family.

History. Acts 1979, No. 391, § 2; A.S.A. 1947, § 80-1255.2.

6-17-1303. Policies and regulations.

(a) The board of directors of each school district shall adopt written policies for the administration of sick leave.

(b) Such policies and regulations shall be a part of the written policies of each school district, and a copy shall be furnished to each employee.

History. Acts 1979, No. 391, § 5; A.S.A. 1947, § 80-1255.5.

6-17-1304. Amount and use of leave.

(a) Each school district in the state shall provide sick leave for each of its employees at a minimum accumulation rate of one (1) day per month or major portion thereof that the employee is employed at full pay.

(b) Such accumulation shall begin with the first month or major portion thereof beginning with the first day of the first school term for which each such individual is employed.

(c) If an employee resigns or leaves his or her employment position for any reason before the end of the school term, the employing school district may deduct from his or her last pay check full compensation for any days of sick leave in excess of the number of days earned.

(d) An employee shall be entitled to sick leave only for reasons of personal illness or illness in his or her immediate family.

History. Acts 1979, No. 391, § 3; A.S.A. 1947, § 80-1255.3.

6-17-1305. Record of used and accumulated leave.

(a) A record of sick leave used and accumulated shall be established and maintained by each school district for each of its employees.

(b) Sick leave that is unused by an employee during any school year shall be accumulated in such employee's sick leave account at a rate of one (1) day per month or major portion thereof employed until ninety (90) days have been accumulated.

(c) An employee who qualifies for sick leave under § 6-17-1304 may use any amount up to his or her total number of accumulated days.

(d) Accumulated days of sick leave that are used may be restored up to ninety (90) days in the same manner that they were first accumulated.

History. Acts 1979, No. 391, § 4; A.S.A. 1947, § 80-1255.4; Acts 1991, No. 834, § 1.

6-17-1306. Authority to liberalize policy.

The number of days of sick leave provided by this subchapter are minimums only, and nothing in this subchapter shall prohibit any school district from providing more days of sick leave or from having a more liberal policy for the administration of sick leave, including, but not limited to, the establishment of sick leave pools or banks and allowing school district employees who are husband and wife to each utilize the other's accumulated sick leave.

History. Acts 1979, No. 391, § 6; A.S.A. 1947, § 80-1255.6; Acts 1997, No. 1319, § 1; 1999, No. 40, § 2.

6-17-1307. Unused leave — Credit.

(a) Whenever a school employee employed by a school district in this state shall leave the school district and accept employment in another school district, the employee shall be granted credit by the new school district for up to ninety (90) days of unused sick leave accumulated by the employee in the former school district.

(b) The accumulated and unused sick leave shall be credited to the employee by the school district upon receipt of written proof from the school district in which the employee was formerly employed.

History. Acts 1991, No. 834, § 2.

6-17-1308. Absence due to injury from assault.

(a) Each school district shall grant a leave of absence with full pay for a maximum period of one (1) year to any school employee who is absent from duty in a public school as a result of personal injury from an assault or other violent criminal act committed against the employee in the course of employment in the public school. Such leave of absence shall not be charged to the sick leave provided to the school employee under this subchapter.

(b) The board of directors of each school district shall adopt written policies for the implementation of this section and shall incorporate them as a part of the written personnel policies of the school district.

History. Acts 1995, No. 1233, § 1.

SUBCHAPTER 14 — WORKERS' COMPENSATION**SECTION.**

6-17-1401. Coverage provided.

6-17-1402. Workers' Compensation Commission — Authority and jurisdiction.

6-17-1403. Financing coverage.

6-17-1404. Filing reports of injury or death.

SECTION.

6-17-1405. Notification of award — Transfer of available federal funds.

6-17-1406 — 6-17-1410. [Reserved.]

6-17-1411. School district employees.

6-17-1412. Effective date.

6-17-1413. Carriers.

Effective Dates. Acts 1971, No. 223, § 9: Mar. 4, 1971. Emergency clause provided: "It is hereby found and determined by the General Assembly that Workmen's Compensation benefits are not presently provided for employees of school districts, while such benefits are provided for employees of the State and its agencies, departments and institutions; that it is in the best interest of this State that qualified and competent persons be encouraged to enter the field of education and to accept employment in the public schools; that the provision of workmen's compensation benefits for employees of school districts will provide an additional incen-

tive for qualified and competent persons to enter such employment; that this act provides for workmen's compensation coverage for such employees and should be given effect immediately in order that the proper rules, regulations and forms may be prescribed for carrying out the purposes of this act prior to the effective date of such coverage as provided herein. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1993, No. 862, § 2: July 1, 1994.

6-17-1401. Coverage provided.

Workers' compensation coverage as provided in the Workers' Compensation Law, § 11-9-101 et seq., shall be provided for personal injuries and death of officers and employees of public schools in this state.

History. Acts 1971, No. 223, § 1; A.S.A. 1947, § 80-1237.

CASE NOTES

Exclusive Remedy.

Because teachers were acting within the scope of their employment during school bus accident, their exclusive remedy was to file claims under the Workers' Compensation Act and they were not entitled to any part of the school district's

insurance policy proceeds which the insurer interpleaded. *Helms v. Southern Farm Bureau Cas. Ins. Co.*, 281 Ark. 450, 664 S.W.2d 870 (1984).

Cited: *Magnet Cove Sch. Dist. v. Barnett*, 81 Ark. App. 11, 97 S.W.3d 909 (2003).

6-17-1402. Workers' Compensation Commission — Authority and jurisdiction.

(a) The Workers' Compensation Commission is authorized to adopt rules and regulations and to prescribe forms it deems necessary or desirable to properly carry out the purpose and intent of this subchapter.

(b) The commission shall have exclusive jurisdiction of all claims filed by or in behalf of school district employees pursuant to the provisions of this subchapter for workers' compensation benefits.

(c) The method and procedure of filing claims and the determination of awards pursuant to such claims shall be the same as provided by law, and rules and regulations of the commission, with respect to claims filed by employees of private employers.

(d) However, the action taken by the commission with respect to the allowance or disallowance of any claim filed pursuant to the provisions of this subchapter shall be final and binding upon all parties and shall not be subject to judicial review.

History. Acts 1971, No. 223, §§ 2, 6; A.S.A. 1947, §§ 80-1238, 80-1242.

CASE NOTES

Appellate Review.

School teachers who are injured while acting within the scope of their employment must file their claims under the Workers' Compensation Act; however, this limitation does not preclude school district employees or their employer from

seeking appellate review of the Workers' Compensation Commission's decision. *Magnet Cove Sch. Dist. v. Barnett*, 81 Ark. App. 11, 97 S.W.3d 909 (2003).

Cited: *Helms v. Southern Farm Bureau Cas. Ins. Co.*, 281 Ark. 450, 664 S.W.2d 870 (1984).

6-17-1403. Financing coverage.

(a) The General Assembly shall biennially appropriate funds as it shall deem necessary to cover awards made to school district employees under the provisions of this subchapter.

(b) All funds so appropriated by the General Assembly shall be deposited in the Workers' Compensation Revolving Fund, and all awards made under the provisions of this subchapter shall be paid from

the fund on vouchers drawn by the Workers' Compensation Commission.

(c) Annually on July 1, the commission shall certify to the Chief Fiscal Officer of the State the amounts of all awards made and paid during the preceding year to or in behalf of public school employees, and the Chief Fiscal Officer of the State shall cause to be transferred to the Workers' Compensation Revolving Fund from the Public School Fund the amount as was certified to him or her as having been paid hereunder in behalf of public school employees.

(d) The Commissioner of Education shall also cause to be transferred to the Workers' Compensation Revolving Fund from the Public School Fund such amounts as may be certified to him or her by the commission as the cost of administering the provisions of this subchapter for public school employees.

History. Acts 1971, No. 223, § 3; A.S.A. 1947, § 80-1239.

6-17-1404. Filing reports of injury or death.

(a) The appropriate school district officials shall file with the Workers' Compensation Commission within ten (10) days after receiving notice of any personal injury or death of any employee of the school district, a report showing the date, time, and place of such injury or death and briefly stating the circumstances and extent thereof, the name of the injured or deceased person, and the names of all witnesses.

(b) The report shall be made on forms approved by the commission.

History. Acts 1971, No. 223, § 4; A.S.A. 1947, § 80-1240.

6-17-1405. Notification of award — Transfer of available federal funds.

(a) Upon making any award to or in behalf of an employee of any school district, the Workers' Compensation Commission shall notify the appropriate officer of the school district and shall notify the Department of Education.

(b) If the salary or compensation of the employee in whose behalf the award was made is paid wholly or partly from federal funds, the department is authorized to transfer funds from the federal funds available for the program under which such employee was paid to the Public School Fund to reimburse the fund for funds transferred to the Workers' Compensation Revolving Fund as provided for in this subchapter.

History. Acts 1971, No. 223, § 5; A.S.A. 1947, § 80-1241.

6-17-1406 — 6-17-1410. [Reserved.]**6-17-1411. School district employees.**

(a) All school districts shall be required to provide workers' compensation coverage for their employees.

(b) Coverages shall be provided for losses incurred while performing work for the school district.

History. Acts 1993, No. 862, § 1.

6-17-1412. Effective date.

(a) Claims incurred prior to July 1, 1994, shall continue to be the responsibility of the state.

(b) Claims incurred on and after July 1, 1994, shall be the responsibility of the school districts.

History. Acts 1993, No. 862, § 2.

6-17-1413. Carriers.

(a) School districts may provide workers' compensation coverage either through private carriers, municipal self-funding groups, or one (1) or more self-funding groups.

(b) Self-funding groups established for this purpose shall meet the following requirements:

(1) Any such group established to provide such coverage to school districts only shall offer coverage to any school district in the state that applies for such coverage;

(2) Any group established to provide workers' compensation coverage to school districts shall offer such coverage at rates established by the National Council of Compensation Insurance and approved by the State Insurance Department. Premiums for school districts participating in any such group shall be revised annually based on the loss experience of the particular school district or group of school districts; and

(3)(A)(i) Any self-funding group of participating school districts shall be subject to the regulations of the Workers' Compensation Commission applicable to self-insured groups or providers. However, school districts shall not be required to enter into an indemnity agreement binding them jointly and severally.

(ii) Each board governing a self-funded group shall be permitted to declare dividends or give credits against renewal premiums based on annual loss experience.

(iii) All self-funded groups shall obtain excess reinsurance from an admitted or approved insurance company doing business in Arkansas.

(B)(i) However, in lieu of the reinsurance requirements in subdivision (b)(3)(A)(iii) of this section, any self-funded group under this section with one million five hundred thousand dollars (\$1,500,000)

or more in annually collected premiums may provide excess reserves of twenty percent (20%) of annual premiums by any one (1) of the following ways:

- (ii) Cash or certificates of deposit in Arkansas banks; or
- (iii) Letters of credit from an Arkansas bank.

History. Acts 1993, No. 862, § 3.

SUBCHAPTER 15 — TEACHER FAIR DISMISSAL ACT

SECTION.

- 6-17-1501. Title.
- 6-17-1502. Definitions.
- 6-17-1503. Construction.
- 6-17-1504. Evaluation — Effect.
- 6-17-1505. Teacher personnel file.
- 6-17-1506. Contract renewal — Notice of nonrenewal — Rescission.

SECTION.

- 6-17-1507. Notice of termination recommendation.
- 6-17-1508. Suspension.
- 6-17-1509. Hearing.
- 6-17-1510. Board action on termination or nonrenewal — Appeal.

Effective Dates. Acts 1989, No. 625, § 4: Mar. 16, 1989. Emergency clause provided: "It is hereby found and determined by the General Assembly of the State of Arkansas that there will be teachers during the spring of 1989 who may be recommended for nonrenewal, termination or suspension and that such teachers will not be adequately protected in their jobs under the provisions of Chapter 17 of Title 6 of the Arkansas Code unless it is amended through this Act which requires strict compliance and provides an alternate forum for appeal; that the immediate implementation of this Act is necessary to preserve the peace, safety and health of citizens and teachers of the State of Arkansas. Therefore, an emergency is declared to exist, and this Act being necessary for the preservation of the public

peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 2001, No. 1739, § 4: July 1, 2001. Emergency clause provided: "It is found and determined by the General Assembly that the current standard for teacher contract nonrenewal, termination, or suspension is causing undue hardship on public school districts; and that there is a pressing and urgent need to have corrections prior to the beginning of the 2001-2002 school year to ensure that the state's children are taught by only the most qualified and competent teachers in the state. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 2001."

RESEARCH REFERENCES

Am. Jur. 68 Am. Jur. 2d, Schools, § 147 et seq.

C.J.S. 78 C.J.S., Schools, § 200 et seq.

U. Ark. Little Rock L.J. Legislation of the 1983 General Assembly, Education, 6 U. Ark. Little Rock L.J. 622.

CASE NOTES

ANALYSIS

Applicability.
Attorneys' Fees.
Board's Discretion.

Compliance.
Department of Correction.
Employment Status.
Jurisdiction.
Reassignment.

Requirements.
Rules of Procedure.
Standards.

Applicability.

Where plaintiff was a teacher holding a teaching certificate as a condition of his employment, his contract combined his teaching and coaching duties and provided for a total salary, and no separate provision for "extracurricular activities" was provided in the contract, plaintiff, as a teacher/coach, fell within the ambit of this subchapter's protection. *Western Grove Sch. Dist. v. Terry*, 318 Ark. 316, 885 S.W.2d 300 (1994).

Attorneys' Fees.

An action brought pursuant to this subchapter is both a civil action and a claim for labor or services within the meaning of § 16-22-308, and thus attorneys' fees are recoverable. *Hall v. Kingsland Sch. Dist.*, 56 Ark. App. 110, 938 S.W.2d 571 (1997).

Actions brought pursuant to this subchapter are actions in contract for labor or services such that attorney's fees may be awarded by the trial court pursuant to § 16-22-308. *Love v. Smackover Sch. Dist.*, 329 Ark. 4, 946 S.W.2d 676 (1997).

Board's Discretion.

For discussion of school board discretion as to hiring and rehiring under former similar law, see: *Mitchell v. Alma School Dist.*, 332 F. Supp. 473 (W.D. Ark. 1971); *Appler v. Mountain Pine Sch. Dist.*, 342 F. Supp. 1131 (W.D. Ark. 1972); *Cato v. Collins*, 394 F. Supp. 629 (E.D. Ark. 1975), *aff'd*, 539 F.2d 656 (8th Cir. 1976); *Williams v. Day*, 412 F. Supp. 336 (E.D. Ark. 1976), *aff'd*, 553 F.2d 1160 (8th Cir. Ark. 1977) (preceding decisions under prior law).

Compliance.

"Strict compliance" by a school district with teacher dismissal law and its own personnel policies was not necessary absent a showing of prejudice from the want of conformity; however, a nonrenewal could have been successfully challenged when the district's actions did not even reach the level of "colorable compliance" with the law. *Roberts v. Van Buren Pub. Sch.*, 773 F.2d 949 (8th Cir. 1985) (decision under prior law).

Only substantial compliance with the provisions of the Teacher Fair Dismissal

Act of 1979 was required. *Rogers v. Masem*, 788 F.2d 1288 (8th Cir. 1985) (decision under prior law).

Substantial compliance with the requirements of this subchapter is all that is required. *Murray v. Alzheimer-Sherrill Pub. Sch.*, 294 Ark. 403, 743 S.W.2d 789 (1988), questioned, *Spainhour v. Dover Pub. Sch. Dist.*, 331 Ark. 53, 958 S.W.2d 528 (1998), questioned, *Western Grove Sch. Dist. v. Terry*, 318 Ark. 316, 885 S.W.2d 300 (1994). But see *Lester v. Mount Vernon-Enola Sch. Dist.*, 323 Ark. 728, 917 S.W.2d 540 (1996); *Caldwell v. Blytheville, Ark. Sch. Dist.*, 23 Ark. App. 159, 746 S.W.2d 381 (1988).

Substantial compliance with this subchapter is all that is required; the substantial compliance rule is for the benefit of both the school district as well as the teachers. *Teague v. Walnut Ridge Sch.*, 315 Ark. 424, 868 S.W.2d 56 (1993), limited, *Western Grove Sch. Dist. v. Terry*, 318 Ark. 316, 885 S.W.2d 300 (1994).

Where a superintendent alone decided which criteria to use in reducing a school district's work force and failed to provide the guarantees enumerated in the district's policy statement concerning teacher contracts, the district violated this subchapter. *Junction City Sch. Dist. v. Alphin*, 56 Ark. App. 61, 938 S.W.2d 239 (1997).

Since 1989, the General Assembly has required strict compliance with this subchapter. *Spainhour v. Dover Sch. Dist.*, 57 Ark. App. 195, 943 S.W.2d 610 (1997), *rev'd*, 331 Ark. 53, 958 S.W.2d 528 (1998).

A district court's termination of a teacher is void unless the district strictly complies with all provisions of this subchapter. *Nettleton Sch. Dist. v. Owens*, 329 Ark. 367, 948 S.W.2d 94 (1997).

Department of Correction.

The Department of Correction School District is part of the State's public school system and subject to the provisions of this subchapter. *Allred v. Arkansas Dep't of Cor. Sch. Dist.*, 322 Ark. 772, 912 S.W.2d 4 (1995).

Employment Status.

This subchapter does not create a property interest in the renewal of teacher's contract that is protected by the federal Constitution. *Piggee v. Jones*, 84 F.3d 303 (8th Cir. 1996), criticized, *Love v. Smack-*

over Sch. Dist., 329 Ark. 4, 946 S.W.2d 676 (1997).

Jurisdiction.

Where a teacher filed a prayer for reinstatement based upon violations of former teacher dismissal law, the circuit court was not wholly without jurisdiction so as to require the granting of a writ of prohibition to prevent the judge from exercising jurisdiction, since a prayer for reinstatement is in the nature of a petition for a writ of mandamus which requires the directors of a school district to do an act which it is plainly their duty to do, and a mandamus action is cognizable in circuit court. *Springdale School Dist. v. Jameson*, 274 Ark. 78, 621 S.W.2d 860 (1981) (decision under prior law).

Reassignment.

Reassignment of teacher held not to amount to dismissal where teacher's reassignment was reasonable. *Chandler v. Perry-Casa Public Schools Dist.*, 286 Ark. 170, 690 S.W.2d 349 (1985).

Requirements.

This subchapter has three requirements: (1) that each district have a set of written personnel policies; (2) that each

district have a committee on personnel policies consisting of five classroom teachers and three administrators; and (3) that the school board approve or adopt any proposed policy or modification to existing policy. *Junction City Sch. Dist. v. Alphin*, 56 Ark. App. 61, 938 S.W.2d 239 (1997).

Rules of Procedure.

This subchapter does not provide for a special proceeding; therefore, the Arkansas Rules of Civil Procedure apply. *Sosabee v. County Line Sch. Dist.*, 320 Ark. 412, 897 S.W.2d 556 (1995).

Standards.

School board was constitutionally required to adopt and promulgate objective nondiscriminatory standards with regard to the employment, assignment and dismissal of teachers. *Cochran v. Chidester Sch. Dist.*, 456 F. Supp. 390 (W.D. Ark. 1978) (decision under prior law).

Cited: *Scoggins v. Board of Educ.*, 853 F.2d 1472 (8th Cir. 1988); *Lester v. Mount Vernon-Enola Sch. Dist.*, 323 Ark. 728, 917 S.W.2d 540 (1996); *McCaskill v. Fort Smith Pub. Sch. Dist.*, 324 Ark. 488, 921 S.W.2d 945 (1996); *Jackson v. Delta Special Sch. Dist.*, No. 2, 86 F.3d 1489 (8th Cir. 1996).

6-17-1501. Title.

This subchapter shall be referred to and may be cited as "The Teacher Fair Dismissal Act of 1983".

History. Acts 1983, No. 936, § 1; A.S.A. 1947, § 80-1266.

RESEARCH REFERENCES

U. Ark. Little Rock L. Rev. Annual Survey of Caselaw, Employment Discrimi-

nation and Labor Law, 24 U. Ark. Little Rock L. Rev. 975.

CASE NOTES

ANALYSIS

Applicability.
Arbitration.

Applicability.

The Teacher Fair Dismissal Act was not applicable because the proposed contract

constituted a reassignment of the teacher's duties and not a nonrenewal where the teacher's salary did not decrease and his coaching duties were merely reassigned to the junior high school football program. *Meadors v. Arkadelphia Pub. Schs.*, 69 Ark. App. 104, 10 S.W.3d 109 (2000).

School district counselor could not challenge a five-day disciplinary suspension under the provisions of the Teacher Fair Discharge Dismissal Act of 1983, §§ 6-17-1501 through 6-17-1510, because the Act applied only to suspensions imposed in the context of a recommendation that a teacher either be terminated or that the teacher's employment contract not be renewed, and the counselor's suspension was not of that nature; the counselor had exercised his sole remedy by utilizing the school district grievance procedure established pursuant to § 6-17-208 and was not entitled to further relief. *McGough v. Pine Bluff Sch. Dist.*, 79 Ark. App. 235, 85 S.W.3d 920 (2002).

Arbitration.

Trial court correctly ruled that a terminated school principal's suit against a

school district was barred by res judicata as the principal had a full and fair opportunity in the arbitration proceeding to litigate the matters raised in the instant suit; a review of the arbitrator's award showed that the Teacher Fair Dismissal Act (TFDA) was applied in some respects, however, the principal requested reconsideration on the basis that the award did not fully comport with the TFDA. *Davis v. Little Rock Sch. Dist.*, 92 Ark. App. 174, 211 S.W.3d 587 (2005).

Cited: *Murray v. Altheimer-Sherrill Pub. Sch.*, 294 Ark. 403, 743 S.W.2d 789 (1988); *Cobb v. Stringer*, 850 F.2d 356 (8th Cir. 1988); *Casada v. Booneville School Dist.*, 686 F. Supp. 730 (W.D. Ark. 1988).

6-17-1502. Definitions.

(a) As used in this subchapter:

(1) "Teacher" means any person, exclusive of the superintendent or assistant superintendent, employed in an Arkansas public school district who is required to hold a teaching certificate from the Department of Education as a condition of employment; and

(2) "Probationary teacher" means a teacher who has not completed three (3) successive years of employment in the school district in which the teacher is currently employed. A teacher employed in a school district in this state for three (3) years shall be deemed to have completed the probationary period; however, an employing school district may, by a majority vote of its directors, provide for one (1) additional year of probationary status.

(b) A teacher who has completed three (3) successive years of employment in the school district in which the teacher is employed on July 4, 1983, or a teacher who has been given credit for a prior service in another school district as authorized by subdivision (a)(2) of this section, is deemed to have completed the required probationary period.

History. Acts 1983, No. 936, §§ 2, 4; A.S.A. 1947, §§ 80-1266.1, 80-1266.3.

Publisher's Notes. Acts 1983, No. 936 was signed by the Governor on April 9, 1983, and § 12 provided that the effective date should be July 1, 1983. However, the July 1, 1983 effective date would be in-

valid under decisions in *Arkansas Tax Comm'rs v. Moore*, 103 Ark. 48, 145 S.W. 199 (1912), and *Cunningham v. Walker*, 198 Ark. 928, 132 S.W. 2d 24 (1939). July 4, 1983 was the effective date for acts passed during the 1983 regular legislative session.

CASE NOTES

ANALYSIS

Notice.

Probationary Teacher.

Teacher.

Notice.

In certain cases prior to 1989, substantial compliance with the notice requirements sufficed; however, since the 1989 amendment to this section, there must be strict compliance with this subchapter and particularly § 6-17-1506 before a nonrenewal, termination, or suspension may be put into effect. *Western Grove Sch. Dist. v. Terry*, 318 Ark. 316, 885 S.W.2d 300 (1994).

Where substitute teacher failed to meet the definition of "teacher" under the Teacher Fair Dismissal Act, § 6-17-1502 et seq., and did not occupy a position that required a teaching license, he was not entitled to written notice of the nonrenewal of his teaching contract or a hearing on the matter. *Harris v. Altheimer Unified Sch. Dist.*, 94 Ark. App. 152, 227 S.W.3d 437 (2006).

Probationary Teacher.

The General Assembly did not intend to allow a teacher to combine his or her years of teaching in different school districts to achieve nonprobationary status, but to require a teacher to complete three successive years of teaching in a single school district in this state. *McGee v. Armored Pub. Schs.*, 309 Ark. 59, 827 S.W.2d 137 (1992).

The General Assembly did not intend to require a school district to employ a

teacher who had achieved nonprobationary status in another district on a nonprobationary status. *McGee v. Armored Pub. Schs.*, 309 Ark. 59, 827 S.W.2d 137 (1992).

Teacher.

Party who was employed by the district and required to be certified was a teacher; it does not matter if she was denominated a part-time teacher, a half-time teacher, or a replacement. *Love v. Smackover Sch. Dist.*, 322 Ark. 1, 907 S.W.2d 136 (1995).

Where plaintiff was employed with the Department of Correction school district as a teacher and was required to have a state teaching certificate as prerequisite to employment, he was a teacher within the meaning of this section. *Allred v. Arkansas Dep't of Cor. Sch. Dist.*, 322 Ark. 772, 912 S.W.2d 4 (1995).

In a case where a teacher alleged that a school district breached its contract with the teacher by violating the Arkansas Teacher Fair Dismissal Act (TFDA), the teacher, although receiving the pay of a teacher, failed to meet the requirements set forth in subdivision (a)(1) of this section; therefore, he was not a teacher for the purposes of the TFDA and the teacher lost the benefits provided by the TFDA and could not pursue an action under the TFDA. *Sheets v. Dollarway Sch. Dist.*, 82 Ark. App. 539, 120 S.W.3d 119 (2003).

Cited: *Roberts v. Van Buren Pub. Sch.*, 773 F.2d 949 (8th Cir. 1985); *Hilton v. Pine Bluff Pub. Sch.*, 796 F.2d 230 (8th Cir. 1986); *Sosebee v. County Line Sch. Dist.*, 320 Ark. 412, 897 S.W.2d 556 (1995).

6-17-1503. Construction.

(a) The General Assembly finds:

(1) That the current standard, which requires cause that is not arbitrary, capricious, or discriminatory, for the nonrenewal, termination, or suspension of a teacher should be raised to a standard of just and reasonable cause; and

(2) That the current standard for compliance with this subchapter and a school district's personnel policies of strict compliance should be lowered to substantial compliance.

(b) This subchapter is not a teacher tenure law in that it does not confer lifetime appointment of teachers.

(c) A nonrenewal, termination, suspension, or other disciplinary action by a school district shall be void unless the school district

substantially complies with all provisions of this subchapter and the school district's applicable personnel policies.

History. Acts 1983, No. 936, § 3; A.S.A. 1947, § 80-1266.2; Acts 1989, No. 625, § 1; 2001, No. 1739, § 1.

CASE NOTES

ANALYSIS

Applicability.

Continuation of Contracts.

Expectation of Reemployment.

Remedies.

Retaliatory Discharge.

Strict Compliance.

Termination and Nonrenewal.

Violation Shown.

Applicability.

Party who was employed by the district and required by the terms of her contract to be certified, was covered by this act. *Love v. Smackover Sch. Dist.*, 322 Ark. 1, 907 S.W.2d 136 (1995).

The strict compliance requirement of this section did not apply to assist a plaintiff high school principal who was not involuntarily terminated, but who instead resigned. *Higginbotham v. Junction City Sch. Dist.*, 332 Ark. 556, 966 S.W.2d 877 (1998), overruled in part, *Williams v. Little Rock Sch. Dist.*, 347 Ark. 637, 66 S.W.3d 590 (2002).

Continuation of Contracts.

Since a teacher's contract with the school district continues unless nonrenewed for cause, the trial court correctly awarded the teacher backpay for the years between her nonrenewal and her reinstatement. *Leola Sch. Dist. v. McMahan*, 289 Ark. 496, 712 S.W.2d 903 (1986) (decision under prior law).

Expectation of Reemployment.

Former procedure for terminating or dismissing teachers created no expectation of continued reemployment which would have constituted a constitutionally protected property interest. *Cato v. Collins*, 539 F.2d 656 (8th Cir. 1976); *Sutton v. Marianna Sch. Dist. A*, 573 F. Supp. 159 (E.D. Ark. 1983) (preceding decisions under prior law).

Former similar law granted no right to continued employment, but merely condi-

tioned a nonprobationary teacher's reemployment on affirmative action by the school board that was not arbitrary or capricious. *Sutton v. Marianna Sch. Dist. A*, 573 F. Supp. 159 (E.D. Ark. 1983) (decision under prior law).

Remedies.

Where teacher requested a hearing within the thirty-day window provided by § 6-17-1509, but school district did not offer teacher a hearing, that violation of this chapter voided the teacher's termination; the remedy granted was back pay rather than reinstatement. *Jackson v. Delta Special Sch. Dist.*, No. 2, 86 F.3d 1489 (8th Cir. 1996).

Retaliatory Discharge.

Where school district offered overwhelming evidence supporting a teacher's termination, including teacher's own admissions that she spread slanderous, unsubstantiated rumors about the superintendent, the teacher's claim of retaliatory discharge failed. *Jackson v. Delta Special Sch. Dist.*, No. 2, 86 F.3d 1489 (8th Cir. 1996).

Strict Compliance.

Mere recitation of the generic categories of inefficiency and noncompliance with written regulations and policies is insufficient for nonrenewal. *Hamilton v. Pulaski County Special Sch. Dist.*, 321 Ark. 261, 900 S.W.2d 205 (1995).

Since 1989, the General Assembly has required strict compliance with this subchapter. *Spainhour v. Dover Sch. Dist.*, 57 Ark. App. 195, 943 S.W.2d 610 (1997), rev'd, 331 Ark. 53, 958 S.W.2d 528 (1998).

A district court's termination of a teacher is void unless the district strictly complies with all provisions of this subchapter. *Nettleton Sch. Dist. v. Owens*, 329 Ark. 367, 948 S.W.2d 94 (1997).

Where the school district failed to comply with § 6-17-1509 by failing to give teacher a hearing before it voted not to

renew her contract, the action of the district was void under this section; although this may have been a "procedural error" and although the district may have substantially complied with the hearing provisions of § 6-17-1509, substantial compliance has not been sufficient since this section's amendment in 1989. *Spainhour v. Dover Pub. Sch. Dist.*, 331 Ark. 53, 958 S.W.2d 528 (1998).

Under this section, as it was in effect in 1994, a school district's failure to provide a principal with a hearing regarding the nonrenewal of his contract within 10 days after his request automatically renewed the contract. *Foreman Sch. Dist. No. 25 v. Steele*, 347 Ark. 193, 61 S.W.3d 801 (2001).

In a case where a teacher alleged that a school district breached its contract with the teacher by violating the Arkansas Teacher Fair Dismissal Act (TFDA) and that such breach entitled him to all the monetary benefits which he had under the 1999-2000 contract, plus interest and attorney's fees, because the district failed to provide written notice of the problems or evaluations as required by § 6-17-1504 of the TFDA, the district failed to strictly comply with the statutory provisions of the TFDA and the teacher's contract was renewed by operation of law; however, the teacher's refusal to mitigate his damages limited his damages to the difference in what he earned under the 1999-2000 contract and what he could have earned had he accepted the offer of the district, but the teacher was entitled to reasonable

attorney's fees pursuant to § 16-22-308. *Sheets v. Dollarway Sch. Dist.*, 82 Ark. App. 539, 120 S.W.3d 119 (2003).

Termination and Nonrenewal.

Termination under § 6-17-1507 could not be used as a subterfuge to enforce nonrenewal, when the procedure for nonrenewal was void due to noncompliance with the nonrenewal statute. *Hannon v. Armored Sch. Dist. # 9*, 329 Ark. 267, 946 S.W.2d 950 (1997).

Pursuant to this section and § 6-17-1506(b)(2)(B), school district's decision not to renew principal's contract did not violate Teacher Fair Dismissal Act because the school district was not required to have a reduction-in-force policy in place and the consideration of future school reorganization was not improper. *Olsen v. E. End Sch. Dist.*, 84 Ark. App. 439, 143 S.W.3d 576 (2004).

Violation Shown.

Holding a requested hearing fewer than five days after teacher's request for review of superintendent's termination recommendation was submitted constituted failure to comply strictly with § 6-17-1509(c)(1). *Lester v. Mount Vernon-Enola Sch. Dist.*, 323 Ark. 728, 917 S.W.2d 540 (1996).

Cited: *Western Grove Sch. Dist. v. Terry*, 318 Ark. 316, 885 S.W.2d 300 (1994); *Allred v. Arkansas Dep't of Cor. Sch. Dist.*, 322 Ark. 772, 912 S.W.2d 4 (1995); *Small v. Cottrell*, 332 Ark. 225, 964 S.W.2d 383 (1998).

6-17-1504. Evaluation — Effect.

(a) Each teacher employed by the board of directors of a school district must be evaluated in writing annually.

(b) Evaluation criteria and procedures shall be established in the manner prescribed in Acts 1975, No. 400 [repealed].

(c) Whenever a superintendent or other school administrator charged with the supervision of a teacher believes or has reason to believe that a teacher is having difficulties or problems meeting the expectations of the school district or its administration and the administrator believes or has reason to believe the problems could lead to termination or nonrenewal of contract, the administrator shall bring the problems and difficulties to the attention of the teacher involved in writing and shall document the efforts which have been undertaken to assist the teacher to correct whatever appears to be the cause for potential termination or nonrenewal.

History. Acts 1983, No. 936, § 7; A.S.A. 1947, § 80-1266.6.

CASE NOTES

ANALYSIS

Compliance.

Documentation.

Notice.

Compliance.

Substantial compliance with this section is all that is required. *Murray v. Alzheimer-Sherrill Pub. Sch.*, 294 Ark. 403, 743 S.W.2d 789 (1988), questioned, *Spainhour v. Dover Pub. Sch. Dist.*, 331 Ark. 53, 958 S.W.2d 528 (1998), questioned, *Western Grove Sch. Dist. v. Terry*, 318 Ark. 316, 885 S.W.2d 300 (1994). But see *Lester v. Mount Vernon-Enola Sch. Dist.*, 323 Ark. 728, 917 S.W.2d 540 (1996); *Caldwell v. Blytheville, Ark. Sch. Dist.*, 23 Ark. App. 159, 746 S.W.2d 381 (1988).

Documentation.

This section contemplates, and fairness requires, that superintendents and other school administrators should not only bring problems and difficulties to the attention of the teacher in writing, but should also fully document the efforts undertaken to correct the problems. *Murray v. Alzheimer-Sherrill Pub. Sch.*, 294 Ark. 403, 743 S.W.2d 789 (1988), questioned, *Spainhour v. Dover Pub. Sch. Dist.*, 331 Ark. 53, 958 S.W.2d 528 (1998), questioned, *Western Grove Sch. Dist. v. Terry*, 318 Ark. 316, 885 S.W.2d 300 (1994).

Notice.

It was intended by the legislature that the teacher be apprised of any problems and permitted to respond. Where the teacher was not given prompt notice nor the opportunity to respond immediately to allegations against her, and her dismissal was based on these same complaints, the trial court was correct in finding that the

board relied upon arbitrary and capricious reasons for nonrenewal. *Leola Sch. Dist. v. McMahan*, 289 Ark. 496, 712 S.W.2d 903 (1986) (decision under prior law).

Where teacher had written notice of his objectionable conduct which occurred in the school year, his dismissal was not in violation. *Caldwell v. Blytheville, Ark. Sch. Dist.*, 23 Ark. App. 159, 746 S.W.2d 381 (1988).

Noncompliance with subsection (c) is some evidence that a dismissal was arbitrary and capricious, but does not necessarily compel that conclusion and is merely one among many circumstances to which a fact-finder must look in order to make a finding. *Casada v. Booneville School Dist.*, 686 F. Supp. 730 (W.D. Ark. 1988).

In a case where a teacher alleged that a school district breached its contract with the teacher by violating the Arkansas Teacher Fair Dismissal Act (TFDA) and that such breach entitled him to all the monetary benefits which he had under the 1999-2000 contract, plus interest and attorney's fees, because the district failed to provide written notice of the problems or evaluations as required by this section, the district failed to strictly comply with the statutory provisions of the TFDA and the teacher's contract was renewed by operation of law; however, the teacher's refusal to mitigate his damages limited his damages to the difference in what he earned under the 1999-2000 contract and what he could have earned had he accepted the offer of the district, but the teacher was entitled to reasonable attorney's fees pursuant to § 16-22-308. *Sheets v. Dollarway Sch. Dist.*, 82 Ark. App. 539, 120 S.W.3d 119 (2003).

Cited: *Tyler v. Hot Springs School Dist.*, 827 F.2d 1227 (8th Cir. 1987).

6-17-1505. Teacher personnel file.

(a) The school district shall maintain a personnel file for each teacher which shall be available to the teacher for inspection and copying at the teacher's expense during normal office hours.

(b) The teacher may submit for inclusion in the file written information in response to any of the material contained therein.

History. Acts 1983, No. 936, § 8; A.S.A. 1947, § 80-1266.7.

6-17-1506. Contract renewal — Notice of nonrenewal — Rescission.

(a) Every contract of employment made between a teacher and the board of directors of a school district shall be renewed in writing on the same terms and for the same salary, unless increased or decreased by law, for the next school year succeeding the date of termination fixed therein, which renewal may be made by an endorsement on the existing contract instrument unless:

(1) By May 1 of the contract year, the teacher is notified by the school superintendent that the superintendent is recommending that the teacher's contract not be renewed;

(2) During the period of the contract or within ten (10) calendar days after the end of the school year, the teacher shall send by certified or registered mail to the president, vicepresident, or secretary of the board of directors of the school district, with a copy to the superintendent, or may deliver in person to the president, vicepresident, or secretary of the board of directors of the school district, with a copy to the superintendent, his or her resignation as a teacher; or

(3) The contract is superseded by another contract between the parties.

(b)(1) Termination, nonrenewal, or suspension shall be only upon the recommendation of the superintendent.

(2)(A) A notice of nonrenewal shall be delivered in person to the teacher or mailed by registered or certified mail to the teacher at the teacher's residence address as reflected in the teacher's personnel file.

(B) The notice of recommended nonrenewal of a teacher shall include a statement of the reasons for the recommendation, setting forth the reasons in separately numbered paragraphs so that a reasonable teacher can prepare a defense.

(c)(1) No teacher shall be required to sign and return a contract for the next school year any sooner than thirty (30) days after the contract is issued to the teacher.

(2) The teacher shall have the right to unilaterally rescind any signed contract no later than ten (10) days after the end of the school year.

History. Acts 1983, No. 936, § 4; A.S.A. 1947, § 80-1266.3; Acts 1997, No. 1247, § 1; 1999, No. 852, § 1.

CASE NOTES

ANALYSIS

Construction.
 Applicability.
 Discrimination.
 Nature of Interest.
 Nonrenewal of Contracts.
 Notice.
 Remedies.
 Resignation.
 Tenure Policy.
 Termination.

Construction.

In certain cases prior to 1989, substantial compliance with the notice requirements sufficed; however, since 1989, there must be strict compliance with this subchapter and particularly with this section before a nonrenewal, termination, or suspension may be put into effect. *Western Grove Sch. Dist. v. Terry*, 318 Ark. 316, 885 S.W.2d 300 (1994).

Applicability.

Party who was employed by the district and required by the terms of her contract to be certified, was covered by this subchapter. *Love v. Smackover Sch. Dist.*, 322 Ark. 1, 907 S.W.2d 136 (1995).

Discrimination.

For cases discussing racial discrimination with respect to nonrenewals under prior similar law, see: *McBeth v. Board of Education*, 300 F. Supp. 1270 (E.D. Ark. 1969); *Cato v. Collins*, 394 F. Supp. 629 (E.D. Ark. 1975), *aff'd*, 539 F.2d 656 (8th Cir. 1976) (preceding decisions under prior law).

Nature of Interest.

The provisions of the Teacher Fair Dismissal Act governing nonrenewal of a teacher's contract do not create a constitutionally protected property interest. *Hilton v. Pine Bluff Pub. Sch.*, 796 F.2d 230 (8th Cir. 1986).

Where the teachers, whose contracts were not renewed, did not receive notice of the nonrenewal by the May 1st deadline, and their school district was annexed by another, which assumed their school district's contractual duties, their claim was founded upon nonrenewal, even though their complaint used the phrase "termination"; therefore, the Teacher Fair Dis-

missal Act created no property interest giving rise to a constitutional claim and dismissal was proper. *Hilton v. Pine Bluff Pub. Sch.*, 796 F.2d 230 (8th Cir. 1986).

Nonrenewal of Contracts.

Teacher was entitled to rely upon the declaration in reduction in force policy that contract nonrenewal determinations would be governed by application of the point system, which by definition took into account such teacher's on-the-job performance. *Murray v. Altheimer-Sherrill Pub. Sch.*, 294 Ark. 403, 743 S.W.2d 789 (1988), questioned, *Spainhour v. Dover Pub. Sch. Dist.*, 331 Ark. 53, 958 S.W.2d 528 (1998), questioned, *Western Grove Sch. Dist. v. Terry*, 318 Ark. 316, 885 S.W.2d 300 (1994).

The actions of the School Board, including the altered contract for the upcoming school year, constituted a nonrenewal by the Board without prior notice to the teacher/coach and was void under this subchapter; further, the teacher/coach was entitled to have a contract for the upcoming school year on the same terms and for the same salary as the current contract. *Western Grove Sch. Dist. v. Terry*, 318 Ark. 316, 885 S.W.2d 300 (1994).

Where a teacher signs a superseding contract, he or she cannot contest the nonrenewal of the original contract at a time past the limitation period of the Teacher Fair Dismissal Act. *Metcalf v. Texarkana Sch. Dist.*, 66 Ark. App. 70, 986 S.W.2d 893 (1999).

The defendant school district's actions constituted a nonrenewal of the plaintiff teacher's contract, and thus required compliance with the notice provisions of this section, where (1) the teacher's 1997-1998 contract contained a coaching supplement and indicated his position as coach for the district, and (2) the teacher's 1998-1999 contract removed the coaching supplement, completely eliminated his coaching duties, and reassigned him to the district's alternative school in an administrative position. *Manila Sch. Dist. No. 15 v. White*, 338 Ark. 195, 992 S.W.2d 125 (1999).

Pursuant to § 6-17-1503 and subdivision (b)(2)(B) of this section, school district's decision not to renew principal's

contract did not violate Teacher Fair Dismissal Act because the school district was not required to have a reduction-in-force policy in place and the consideration of future school reorganization was not improper. *Olsen v. E. End Sch. Dist.*, 84 Ark. App. 439, 143 S.W.3d 576 (2004).

Notice.

Teacher held not to have received adequate notice of nonrenewal. *Wabbaseka School Dist. v. Johnson*, 225 Ark. 982, 286 S.W.2d 841 (1956); *Newton v. Calhoun County Sch. Dist.*, 232 Ark. 943, 341 S.W.2d 30 (1960); *Green Forest Pub. Sch. v. Herrington*, 287 Ark. 43, 696 S.W.2d 714 (1985) (preceding decisions under prior law).

Teacher who was not notified of nonrenewal in accordance with this section was entitled to reinstatement and salary for following year. *Newton v. Calhoun County Sch. Dist.*, 232 Ark. 943, 341 S.W.2d 30 (1960) (decision under prior law).

Subject to certain exceptions, a school district must give written notice to a teacher of its intent not to renew a teaching contract on the same terms and conditions as the immediately preceding teaching contract between the parties. *Gillespie v. Board of Educ.*, 528 F. Supp. 433 (E.D. Ark. 1981), *aff'd*, 692 F.2d 529 (8th Cir. Ark. 1982) (decision under prior law).

Substantial compliance with the notice requirement for nonrenewal of a school teacher's contract is sufficient, absent a showing that prejudice resulted from a want of strict compliance. *Gillespie v. Board of Educ.*, 528 F. Supp. 433 (E.D. Ark. 1981), *aff'd*, 692 F.2d 529 (8th Cir. Ark. 1982); *Lee v. Big Flat Pub. Sch.*, 280 Ark. 377, 658 S.W.2d 389 (1983), questioned, *Western Grove Sch. Dist. v. Terry*, 318 Ark. 316, 885 S.W.2d 300 (1994) (preceding decisions under prior law).

Notice of nonrenewal on same terms held adequate. *Gillespie v. Board of Educ.*, 528 F. Supp. 433 (E.D. Ark. 1981), *aff'd*, 692 F.2d 529 (8th Cir. Ark. 1982) (decision under prior law).

This section contemplates that notice be accorded before the school board's decision on the superintendent's recommendation not to renew a nonprobationary teacher's contract. *Murray v. Altheimer-Sherrill Pub. Sch.*, 294 Ark. 403, 743 S.W.2d 789 (1988), questioned, *Spainhour v. Dover*

Pub. Sch. Dist., 331 Ark. 53, 958 S.W.2d 528 (1998), questioned, *Western Grove Sch. Dist. v. Terry*, 318 Ark. 316, 885 S.W.2d 300 (1994).

When teachers do not receive notice of recommended nonrenewal by May 1, their contracts with the district are automatically renewed for the upcoming school year, and the district, as a district to which new territory has been annexed, is bound to honor these contracts pursuant to § 6-13-220 (repealed). *Hilton v. Pine Bluff Pub. Sch.*, 295 Ark. 397, 748 S.W.2d 648 (1988).

The notice of proposed nonrenewal must be given to a teacher before the school board's decision to renew. *Western Grove Sch. Dist. v. Terry*, 318 Ark. 316, 885 S.W.2d 300 (1994).

Where plaintiff teacher, presented with reassignment of duties or nonrenewal of contract, elected to sign contract which reassigned his coaching duties and reduced his salary, that contract superseded the prior contract and relieved defendant of complying with the notice requirements of this section. *McCaskill v. Fort Smith Pub. Sch. Dist.*, 324 Ark. 488, 921 S.W.2d 945 (1996).

Receipt of a resignation by the superintendent satisfies the requirement of delivery under this section and constitutes strict compliance under the Teacher Fair Dismissal Act. *Higginbotham v. Junction City Sch. Dist.*, 332 Ark. 556, 966 S.W.2d 877 (1998), overruled in part, *Williams v. Little Rock Sch. Dist.*, 347 Ark. 637, 66 S.W.3d 590 (2002).

In a case where a teacher alleged that a school district breached its contract with the teacher by violating the Arkansas Teacher Fair Dismissal Act (TFDA) and that such breach entitled him to all the monetary benefits which he had under the 1999-2000 contract, plus interest and attorney's fees, because the district failed to provide written notice of the problems or evaluations as required by § 6-17-1504 of the TFDA, the district failed to strictly comply with the statutory provisions of the TFDA and the teacher's contract was renewed by operation of law; however, the teacher's refusal to mitigate his damages limited his damages to the difference in what he earned under the 1999-2000 contract and what he could have earned had he accepted the offer of the district, but the teacher was entitled to reasonable

attorney's fees pursuant to § 16-22-308. *Sheets v. Dollarway Sch. Dist.*, 82 Ark. App. 539, 120 S.W.3d 119 (2003).

In order for a reviewing court to make a determination regarding the adequacy of notice given, it must examine not only the notice of nonrenewal, but also any record of the school-board hearing made pursuant to the Arkansas Teacher Fair Dismissal Act, § 6-17-1501 et seq. thus, in a case where a teacher alleged that she was not given adequate notice of the nonrenewal of her contract the trial court erred by determining the issue without considering what actually occurred at a hearing on the matter before a school board to see if the teacher was able to prepare a defense. *Watson Chapel Sch. Dist. v. Russell*, 367 Ark. 443, — S.W.3d — (2006).

Remedies.

Although § 6-17-1510 describes the administrative hearing process in §§ 6-17-1509 and 6-17-1510 as the "exclusive remedy" for any nonprobationary teacher aggrieved by a board decision, this procedure presupposes a proper notice of a nonrenewal recommendation by the superintendent to the teacher so that the teacher may request a hearing before board action. *Western Grove Sch. Dist. v. Terry*, 318 Ark. 316, 885 S.W.2d 300 (1994).

Resignation.

Under § 6-13-620, the sole power to execute and to terminate a teacher's contract is vested in a school district's board of education; obviously, the legislature was mindful of that rule when it passed this section, which provides for the resignation to be delivered to the school board. *Teague v. Walnut Ridge Sch.*, 315 Ark. 424, 868 S.W.2d 56 (1993), limited, *Western Grove Sch. Dist. v. Terry*, 318 Ark. 316, 885 S.W.2d 300 (1994).

This section does not require the board to take any official action in response to a teacher's resignation; had the legislature intended to require a school board to officially accept a teacher's resignation, it could have so provided. *Teague v. Walnut Ridge Sch.*, 315 Ark. 424, 868 S.W.2d 56

(1993), limited, *Western Grove Sch. Dist. v. Terry*, 318 Ark. 316, 885 S.W.2d 300 (1994).

School employee substantially complied with this section by delivering his resignation, which was addressed to the school board, to the principal; this holding is based in part on the facts that employee delivered his resignation to the principal with full intent that it make its way to the school board and that knowledge of the resignation made its way to the school board prior to employee's unsuccessful attempt to revoke his resignation. *Teague v. Walnut Ridge Sch.*, 315 Ark. 424, 868 S.W.2d 56 (1993), limited, *Western Grove Sch. Dist. v. Terry*, 318 Ark. 316, 885 S.W.2d 300 (1994).

Tenure Policy.

Adoption of a teacher tenure policy by a school board did not give the teachers a tenure beyond or greater than that authorized by former similar section. *Nethercutt v. Pulaski County Special Sch. Dist.*, 251 Ark. 836, 475 S.W.2d 517 (1972) (decision under prior law).

Termination.

Evidence insufficient to compel issuance of teaching contract. *Special Sch. Dist. v. Lynch*, 242 Ark. 385, 413 S.W.2d 880 (1967) (preceding decisions under prior law).

Evidence sufficient to justify termination. *Mitchell v. Alma School Dist.*, 332 F. Supp. 473 (W.D. Ark. 1971); *Cato v. Collins*, 394 F. Supp. 629 (E.D. Ark. 1975), aff'd, 539 F.2d 656 (8th Cir. 1976); *King v. Cochran*, 419 F. Supp. 54 (W.D. Ark. 1976), aff'd, 551 F.2d 1133 (8th Cir. Ark. 1977).

Termination under § 6-17-1507 could not be used as a subterfuge to enforce nonrenewal, when the procedure for nonrenewal was void due to noncompliance with the nonrenewal statute. *Hannon v. Armored Sch. Dist. # 9*, 329 Ark. 267, 946 S.W.2d 950 (1997).

Cited: *Allred v. Arkansas Dep't of Cor. Sch. Dist.*, 322 Ark. 772, 912 S.W.2d 4 (1995); *Spainhour v. Dover Pub. Sch. Dist.*, 331 Ark. 53, 958 S.W.2d 528 (1998); *Harris v. Alzheimer Unified Sch. Dist.*, 94 Ark. App. 152, 227 S.W.3d 437 (2006).

6-17-1507. Notice of termination recommendation.

(a) A teacher may be terminated only during the term of any contract when there is a reduction in force created by districtwide reduction in certified staff or for incompetent performance, conduct which materially interferes with the continued performance of the teacher's duties, repeated or material neglect of duty, or other just and reasonable cause.

(b) The superintendent shall notify the teacher of the termination recommendation.

(c)(1) The notice shall include a statement of the grounds for the recommendation of termination, setting forth the grounds in separately numbered paragraphs so that a reasonable teacher can prepare a defense.

(2) The notice shall be delivered in person to the teacher or sent by registered or certified mail to the teacher at the teacher's residence address as reflected in the teacher's personnel file.

History. Acts 1983, No. 936, § 5; A.S.A. 1947, § 80-1266.4; Acts 1999, No. 852, § 2; 2001, No. 1739, § 2.

CASE NOTES**ANALYSIS**

In General.

Adequacy of Notice.

Arbitrary or Capricious Nonrenewal.

Noncompliance.

Resignation.

Termination and Nonrenewal.

In General.

The Teacher Fair Dismissal Act of 1979 gave rise to a minimal, but sufficient, expectation in continued employment, absent some rational, justifiable cause for termination; therefore, a teacher had a substantive property right of which he could not be deprived except pursuant to constitutionally adequate procedures. *Rogers v. Masem*, 788 F.2d 1288 (8th Cir. 1985) (decision under prior law).

Adequacy of Notice.

Notice of termination held adequate, timely and proper. *Garner v. Highland School Dist.*, 243 Ark. 750, 421 S.W.2d 895 (1967).

Prior to termination, the school board was obligated, at a minimum, to provide the assistant principal notice of the charges against him, an explanation of the employer's evidence, and an opportunity to present his side of the story. Where

the assistant principal was not informed of his right to request such a hearing, nor was such a hearing provided until more than four months after his employment ended, due process was denied and the assistant principal was entitled to recover in his claim. *Rogers v. Masem*, 788 F.2d 1288 (8th Cir. 1985) (decision under prior law).

Arbitrary or Capricious Nonrenewal.

School board's nonrenewal of teacher's contract held to be arbitrary and capricious. *Allen v. Texarkana Pub. Sch.*, 303 Ark. 59, 794 S.W.2d 138 (1990).

Termination by School Board of teacher's contract which relied exclusively on conduct from a prior school year, without a ground for termination in the current school year, was arbitrary and capricious. *Hannon v. Armored Sch. Dist. # 9*, 329 Ark. 267, 946 S.W.2d 950 (1997).

Noncompliance.

Teacher terminated without written notice and denied hearing was entitled to reinstatement for the contract year and back pay less mitigating outside earnings. *Wagner v. Little Rock Sch. Dist.*, 373 F. Supp. 876 (E.D. Ark. 1973) (decision under prior law).

Where teacher requested a hearing within the thirty-day window provided by

§ 6-17-1509, but school district did not offer teacher a hearing, that violation of this chapter voided the teacher's termination; the remedy granted was back pay rather than reinstatement. *Jackson v. Delta Special Sch. Dist.*, No. 2, 86 F.3d 1489 (8th Cir. 1996).

Because the notice of termination recommendation did not include all the incidents later considered by the board, the district failed to comply with subsection (c); the violation of this provision, together with the district's violation of § 6-17-1510(c), rendered the district's decision to terminate the teachers's contract void. *Nettleton Sch. Dist. v. Owens*, 329 Ark. 367, 948 S.W.2d 94 (1997).

Resignation.

A high school principal's resignation was not equivalent to a firing, notwithstanding that the resignation was requested by the superintendent where the principal voluntarily chose to resign

rather than be fired and was fully aware of his alternatives. *Higginbotham v. Junction City Sch. Dist.*, 332 Ark. 556, 966 S.W.2d 877 (1998), overruled in part, *Williams v. Little Rock Sch. Dist.*, 347 Ark. 637, 66 S.W.3d 590 (2002).

Termination and Nonrenewal.

Termination under this section could not be used as a subterfuge to enforce nonrenewal, when the procedure for nonrenewal was void due to noncompliance with the nonrenewal statute. *Hannon v. Armorel Sch. Dist. # 9*, 329 Ark. 267, 946 S.W.2d 950 (1997).

The district failed to strictly comply with this subchapter in both giving the required notice and in conducting a separate vote on each of the reasons for termination. *Jackson v. El Dorado Sch. Dist.*, 74 Ark. App. 433, 48 S.W.3d 558 (2001).

Cited: *McClelland v. Paris Pub. Sch.*, 294 Ark. 292, 742 S.W.2d 907, 75 A.L.R.4th 263 (1988).

6-17-1508. Suspension.

(a) Whenever a superintendent has reason to believe that cause exists for the termination of a teacher and that immediate suspension of the teacher is necessary, the superintendent may suspend the teacher without notice or a hearing.

(b) The superintendent shall notify the teacher in writing within two (2) school days of the suspension.

(c)(1) The written notice shall include a statement of the grounds for suspension or recommended termination, setting forth the grounds in separately numbered paragraphs so that a reasonable teacher can prepare a defense.

(2) The written notice shall be delivered in person to the teacher or sent by registered or certified mail to the teacher at the teacher's residence address as reflected in the teacher's personnel file and shall state that a hearing before the board of directors is available to the teacher upon request provided that the request is made in writing within the time provided in § 6-17-1509.

(d) The hearing shall be scheduled by the president, vice president, or secretary of the board of directors of a school district and the teacher and shall be held within the time and manner provided in § 6-17-1509 after a request for the hearing is received by the board of directors.

(e) If sufficient grounds for termination or suspension are found, the board of directors may terminate the teacher or continue the suspension for a definite period of time.

(f) The salary of a suspended teacher shall cease as of the date the board of directors sustains the suspension.

(g) If sufficient grounds for termination or suspension are not found, the teacher shall be reinstated without loss of compensation.

History. Acts 1983, No. 936, § 6; A.S.A. 1947, § 80-1266.5; Acts 1999, No. 852, § 3.

CASE NOTES

ANALYSIS

Burden of Proof.
Compensation.
Due Process.

Burden of Proof.

The school district has the burden of proving that a nonprobationary teacher dismissed without cause could have obtained other employment in mitigation. Where the school district offered no evidence that another school district refused to hire the teacher because she sent with her job application a letter which contained two misspellings and one word incorrectly used and her "statement of philosophy of education," nor did the school district offer evidence of the extent to which the teacher's actions contributed to her inability to mitigate her damages, the school district failed to meet its burden of proof. *Western Grove Sch. Dist. v. Strain*, 288 Ark. 507, 707 S.W.2d 306 (1986) (decision under prior law).

Compensation.

Where a nonprobationary teacher was removed from her job without cause, her contract was in abeyance during the pendency of the lawsuit appealing the decision of the school district. Since the lawsuit resulted in her reinstatement, the teacher was entitled to be compensated for the two years of salary she lost between her nonrenewal and her reinstatement. *Western Grove Sch. Dist. v. Strain*,

288 Ark. 507, 707 S.W.2d 306 (1986) (decision under prior law).

Due Process.

Where the assistant principal received a notice from the superintendent which stated that termination was being recommended, the letter stated that its purpose was to provide the assistant principal with the reasons for the recommendation of termination in accordance with the Teacher Fair Dismissal Act of 1979, and the act required that a probationary teacher be given a statement of the grounds for termination but not for non-renewal, the inclusion of the reasons, which were made on the advice of legal counsel indicated that the letter was, in fact, one of termination; therefore since the letter did not state that a hearing was available to the assistant principal, and the assistant principal did not receive the timely hearing on the facial appearance of the letter, the assistant principal did not receive due process. *Rogers v. Masem*, 788 F.2d 1288 (8th Cir. 1985) (decision under prior law).

A superintendent does have authority to place a teacher or a noncertified district employee on suspension; however, those suspended are entitled to a hearing, and only a school board can extend the suspension or deprive the employee of compensation. *Springdale Educ. Ass'n v. Springdale Sch. Dist.*, 133 F.3d 649 (8th Cir. 1998).

Cited: *Releford v. Pine Bluff Sch. Dist.* No. 3, 355 Ark. 503, 140 S.W.3d 483 (2004).

6-17-1509. Hearing.

(a) A teacher who receives a notice of recommended termination or nonrenewal may file a written request with the board of directors of the school district for a hearing.

(b) Written request for a hearing shall be sent by certified or registered mail to the president, vice president, or secretary of the board of directors of the school district, with a copy to the superintendent, or may be delivered in person by the teacher to the president, vice

president, or secretary of the board of directors of the school district, with a copy to the superintendent, within thirty (30) calendar days after the written notice of proposed termination or nonrenewal is received by the teacher.

(c) Upon receipt of a request for a hearing, the board of directors shall grant a hearing in accordance with the following provisions:

(1) The hearing shall take place at a time agreed upon in writing by the parties, but if no time can be agreed upon, then the hearing shall be held no fewer than five (5) calendar days nor more than twenty (20) calendar days after the written request has been received by the board of directors;

(2)(A) The hearing shall be private unless the teacher or the board of directors shall request that the hearing be public.

(B) If the hearing is public, the parent or guardian of any student under eighteen (18) years of age who offers testimony may elect to have the student's testimony offered in private;

(3) The teacher and the board of directors may be represented by representatives of their choosing;

(4) It shall not be necessary that a full record of the proceedings at the hearing be made and preserved unless:

(A) The board of directors shall elect to make and preserve a record of the hearing at its own expense, in which event a copy shall be furnished the teacher, upon request, without cost to the teacher; or

(B) A written request is filed with the board of directors by the teacher at least twenty-four (24) hours prior to the time set for the hearing, in which event the board of directors shall make and preserve at its own expense a record of the hearing and shall furnish a transcript to the teacher without cost; and

(5) The board of directors shall not consider at the hearing any new reasons which were not specified in the notices provided pursuant to this subchapter.

(d) Nothing in this section shall preclude a school district which has chosen to officially recognize in its policies an organization representing the majority of the teachers of the school district for the purpose of negotiating personnel policies, salaries, and educational matters of mutual concern under a written policy agreement from conducting a single nonrenewal hearing when all the school district's teachers are recommended for nonrenewal provided that each teacher at such hearing shall be given an opportunity to make comments to be included in the hearing record.

History. Acts 1983, No. 936, § 9; A.S.A. § 4; 1999, No. 1581, § 1; 2001, No. 551, 1947, § 80-1266.8; Acts 1999, No. 852, § 1.

RESEARCH REFERENCES

Ark. L. Rev. Watkins, Open Meetings Under the Arkansas Freedom of Information Act, 38 Ark. L. Rev. 268.

CASE NOTES

ANALYSIS

Attorney's Fees.
Due Process.
Notice Required.
Public Disclosure.
Record.
Review.
Right Generally.
Timeliness.

Attorney's Fees.

A claim for violation of this subchapter was not a claim for labor or services, or breach of contract for which attorney's fees might be awarded to the prevailing party under § 16-22-308. *Piggee v. Jones*, 84 F.3d 303 (8th Cir. 1996), criticized, *Love v. Smackover Sch. Dist.*, 329 Ark. 4, 946 S.W.2d 676 (1997).

Due Process.

Failure to afford a dismissed teacher a full hearing and provide a complete written record thereof amounts to a denial of due process of law under U.S. Const., Amend. 14. *Appler v. Mountain Pine Sch. Dist.*, 342 F. Supp. 1131 (W.D. Ark. 1972) (decision under prior law).

Evidence sufficient to show that teachers whose contracts were not renewed were not denied due process and equal protection on the theory that the school board made its determination not to renew the contracts prior to the hearings. *Cato v. Collins*, 394 F. Supp. 629 (E.D. Ark. 1975), *aff'd*, 539 F.2d 656 (8th Cir. 1976) (decision under prior law).

Plaintiff had no property or liberty rights at stake and thus was not entitled to the procedural due process provided by the United States Constitution or substantive due process rights in his contest to reverse the school board's decision not to renew contract. *Williams v. Day*, 412 F. Supp. 336 (E.D. Ark. 1976), *aff'd*, 553 F.2d 1160 (8th Cir. Ark. 1977) (decision under prior law).

The federal constitution required that notice and an opportunity for hearing before termination must precede the dismissal of even a nontenured teacher during the contract term. *Cochran v. Chidester Sch. Dist.*, 456 F. Supp. 390 (W.D. Ark. 1978) (decision under prior law).

Where the assistant principal received a notice from the superintendent which stated that termination was being recommended, the letter stated that its purpose was to provide the assistant principal with the reasons for the recommendation of termination in accordance with the Teacher Fair Dismissal Act of 1979, and the act required that a probationary teacher be given a statement of the grounds for termination but not for non-renewal, the inclusion of the reasons, which were made on the advice of legal counsel indicated that the letter was, in fact, one of termination; therefore since the letter did not state that a hearing was available to the assistant principal, and the assistant principal did not receive the timely hearing on the facial appearance of the letter, the assistant principal did not receive due process. *Rogers v. Masem*, 788 F.2d 1288 (8th Cir. 1985) (decision under prior law).

A public employee is entitled to the minimal requirements of fair play before being terminated, and those requirements are: (1) clear and actual notice of the reasons for termination in sufficient detail to enable him or her to present evidence relating to them; (2) notice of both the names of those who have made allegations against the teacher and the specific nature and factual basis for the charges; (3) a reasonable time and opportunity to present testimony in his or her own defense; and (4) a hearing before an impartial board or tribunal. *Casada v. Booneville School Dist.*, 686 F. Supp. 730 (W.D. Ark. 1988).

The failure to provide a hearing constituted neither a deprivation of a teacher's due process rights, nor a violation of this section, where the teacher, instead of receiving a hearing following the notification of nonrenewal, was offered a contract for a second school term, in effect mooted the request for a hearing. *Hubbard v. Parker*, 994 F.2d 529 (8th Cir. 1993).

A superintendent does have authority to place a teacher or a noncertified district employee on suspension; however, those suspended are entitled to a hearing, and only a school board can extend the suspension or deprive the employee of compensation. *Springdale Educ. Ass'n v. Springdale Sch. Dist.*, 133 F.3d 649 (8th Cir. 1998).

Where the school district failed to comply with this section by failing to give teacher a hearing before it voted not to renew her contract, the action of the district was void under § 6-17-1503; although this may have been a "procedural error" and although the district may have substantially complied with the hearing provisions of this section, substantial compliance has not been sufficient since 1989. *Spainhour v. Dover Pub. Sch. Dist.*, 331 Ark. 53, 958 S.W.2d 528 (1998).

Notice Required.

Although § 6-17-1510 describes the administrative hearing process in this section and § 6-17-1510 as the "exclusive remedy" for any nonprobationary teacher aggrieved by a board decision, this procedure presupposes a proper notice of a nonrenewal recommendation by the superintendent to the teacher so that the teacher may request a hearing before board action. *Western Grove Sch. Dist. v. Terry*, 318 Ark. 316, 885 S.W.2d 300 (1994).

Public Disclosure.

Where the reasons for nonrenewal of teacher's contract became public information only after teacher's request for a public hearing, teacher was not deprived of an interest in liberty by the disclosure. *Cato v. Collins*, 539 F.2d 656 (8th Cir. 1976) (decision under prior law).

Record.

Furnishing minutes of hearing by school board did not comply with the provisions of former section for a record of the proceedings. *Appler v. Mountain Pine Sch. Dist.*, 342 F. Supp. 1131 (W.D. Ark. 1972) (decision under prior law).

Review.

In order for a reviewing court to make a determination regarding the adequacy of notice given, it must examine not only the notice of nonrenewal, but also any record of the school-board hearing made pursuant to the Arkansas Teacher Fair Dismissal Act, § 6-17-1501 et seq. thus, in a case where a teacher alleged that she was not given adequate notice of the nonre-

newal of her contract the trial court erred by determining the issue without considering what actually occurred at a hearing on the matter before a school board to see if the teacher was able to prepare a defense. *Watson Chapel Sch. Dist. v. Russell*, 367 Ark. 443, — S.W.3d — (2006).

Right Generally.

For probationary teachers, the procedures attendant upon nonrenewal are separate and distinct from those attendant on termination; probationary teachers are entitled to a hearing for termination but not for renewal. *Rogers v. Masem*, 788 F.2d 1288 (8th Cir. 1985) (decision under prior law).

This section contemplates that an opportunity to be heard be accorded before the school board's decision on the superintendent's recommendation not to renew a nonprobationary teacher's contract. *Murray v. Altheimer-Sherrill Pub. Sch.*, 294 Ark. 403, 743 S.W.2d 789 (1988), questioned, *Spainhour v. Dover Pub. Sch. Dist.*, 331 Ark. 53, 958 S.W.2d 528 (1998), questioned, *Western Grove Sch. Dist. v. Terry*, 318 Ark. 316, 885 S.W.2d 300 (1994).

This section was amended in 1987 to expand the hearing requirement to probationary and nonprobationary teachers alike. *Hubbard v. Parker*, 994 F.2d 529 (8th Cir. 1993).

Where teacher requested a hearing within the thirty-day window provided by this section, but school district did not offer teacher a hearing, that violation of this chapter voided the teacher's termination; the remedy granted was back pay rather than reinstatement. *Jackson v. Delta Special Sch. Dist.*, No. 2, 86 F.3d 1489 (8th Cir. 1996).

Timeliness.

Holding a requested hearing fewer than five days after teacher's request for review of superintendent's termination recommendation was submitted constituted failure to comply strictly with subdivision (c)(1). *Lester v. Mount Vernon-Enola Sch. Dist.*, 323 Ark. 728, 917 S.W.2d 540 (1996).

Cited: *Wagner v. Little Rock Sch. Dist.*, 373 F. Supp. 876 (E.D. Ark. 1973).

6-17-1510. Board action on termination or nonrenewal — Appeal.

(a) Upon conclusion of its hearing with respect to the termination or nonrenewal of a contract of a teacher who has been employed as a full-time teacher by the school district for less than three (3) continuous years, the board of directors shall take action on the recommendations by the superintendent with respect to the termination or nonrenewal of such contract. The board of director's decision with regard to nonrenewal of a probationary teacher shall be final.

(b) Any certified teacher who has been employed continuously by the school district three (3) or more years or who may have achieved nonprobationary status pursuant to § 6-17-1502 may only be terminated or the board of directors may refuse to renew the contract of the teacher when there is a reduction in force created by districtwide reduction in certified staff, for incompetent performance, conduct which materially interferes with the continued performance of the teacher's duties, repeated or material neglect of duty, or other just and reasonable cause. Upon completion of the hearing, the board of directors, within ten (10) days after the holding of the hearing, shall:

(1) Uphold the recommendation of the superintendent to terminate or not renew the teacher's contract;

(2) Reject or modify the superintendent's recommendation to terminate or not renew the teacher's contract; or

(3) Vote to continue the contract of the teacher under such restrictions, limitations, or assurances as the board of directors may deem to be in the best interest of the school district. The decision shall be reached by the board of directors within ten (10) days from the date of the hearing, and a copy shall be furnished in writing to the teacher involved, either by personally delivering it to the teacher or by addressing it to the teacher's last known address by registered or certified mail.

(c) Subsequent to any hearing granted a teacher by this subchapter, the board of directors, by majority vote, shall make specific written conclusions with regard to the truth of each reason given the teacher in support of the recommended termination or nonrenewal.

(d) The exclusive remedy for any nonprobationary teacher aggrieved by the decision made by the board of directors shall be an appeal therefrom to the circuit court of the county in which the school district is located, within seventy-five (75) days of the date of written notice of the action of the board of directors. Additional testimony and evidence may be introduced on appeal to show facts and circumstances showing that the termination or nonrenewal was lawful or unlawful.

History. Acts 1983, No. 936, § 10;
A.S.A. 1947, § 80-1266.9; Acts 2001, No.
1739, § 3.

RESEARCH REFERENCES

U. Ark. Little Rock L.J. Survey—Constitutional Law, 11 U. Ark. Little Rock L.J. 161.

CASE NOTES

ANALYSIS

In General.
Construction.
Appeal.
Arbitrary and Capricious Dismissal.
Damages.
Discrimination.
Due Process.
Intent.
Majority Vote.
Nonprobationary Teachers.
Notice Required.
Probationary Teachers.
Statute of Limitations.

In General.

A school board, and not a superintendent, has ultimate responsibility for all district policies, including policies involving unfavorable employment action. *Springdale Educ. Ass'n v. Springdale Sch. Dist.*, 133 F.3d 649 (8th Cir. 1998).

Construction.

While the plain language of this section does not speak in terms of a "separate" vote, subsection (c) plainly requires a majority vote on the truth of each reason given the teacher in support of the recommended termination; and the board must make specific written conclusions with regard to each of these reasons. *Nettleton Sch. Dist. v. Owens*, 329 Ark. 367, 948 S.W.2d 94 (1997).

Nothing in the language of the statute either explicitly or impliedly stated that the exclusive remedy of an appeal to circuit court was applicable to cases involving a disputed resignation; the fact that the General Assembly specifically stated the types of grievances that had to be appealed to circuit court was a prime indicator of legislative intent. *Williams v. Little Rock Sch. Dist.*, 347 Ark. 637, 66 S.W.3d 590 (2002).

Appeal.

Upon review of the nonrenewal of a teacher's contract, the trial court properly

went beyond finding that the procedure followed by the school board was correct and considered the trial testimony as well as the record. *Kirtley v. Dardanelle Pub. Sch.*, 288 Ark. 86, 702 S.W.2d 25 (1986).

If there is any rational basis for the school board's decision to dismiss a teacher, the court need not find the board's decision to have been arbitrary, capricious or discriminatory. *Kirtley v. Dardanelle Pub. Sch.*, 288 Ark. 86, 702 S.W.2d 25 (1986).

The burden was on the teacher to show that the school board's action in dismissing her was arbitrary, capricious or discriminatory. *Kirtley v. Dardanelle Pub. Sch.*, 288 Ark. 86, 702 S.W.2d 25 (1986).

Where a nonprobationary teacher filed suit in the district court raising a federal claim that her dismissal was based on discriminatory reasons, and a pendent state claim that her dismissal was not in compliance with the Teacher Fair Dismissal Act, the district court had jurisdiction to decide the pendent state law claim even though the Teacher Fair Dismissal Act vested exclusive jurisdiction of an appeal from the decision of a school board in the state court. *Thompkins v. Stuttgart School Dist.*, 787 F.2d 439 (8th Cir. 1986), questioned, *Flowers v. Rebo*, 675 F. Supp. 1165 (E.D. Ark. 1987) (decision under prior law).

The determination not to renew a teacher's contract is a matter within the discretion of the school board, and the reviewing court cannot substitute its opinion for that of the board in the absence of an abuse of discretion by the board. *Leola Sch. Dist. v. McMahan*, 289 Ark. 496, 712 S.W.2d 903 (1986) (decision under prior law); *King v. Elkins Pub. Sch.*, 22 Ark. App. 52, 733 S.W.2d 417 (1987); *Caldwell v. Blytheville, Ark. Sch. Dist.*, 23 Ark. App. 159, 746 S.W.2d 381 (1988); *Helena-West Helena Sch. Dist. v. Davis*, 40 Ark. App. 161, 843 S.W.2d 873 (1992), cert. denied, 313 Ark. 99, 853 S.W.2d 864 (Ark. 1993).

In reviewing the trial court's decision regarding the dismissal of a teacher, the

Supreme Court will affirm unless the court's findings were clearly erroneous; it is not the Supreme Court's function to substitute its judgment for the circuit court's or the school board's. *Leola Sch. Dist. v. McMahan*, 289 Ark. 496, 712 S.W.2d 903 (1986) (decision under prior law); *Caldwell v. Blytheville, Ark. Sch. Dist.*, 23 Ark. App. 159, 746 S.W.2d 381 (1988).

In finding that the school board's non-renewal of the teacher's contract constituted an abuse of discretion, the trial judge did not impermissibly substitute his judgment for that of the board, but rather acted within the scope of judicial review of school board actions. *Leola Sch. Dist. v. McMahan*, 289 Ark. 496, 712 S.W.2d 903 (1986) (decision under prior law).

This subchapter does not require that the school board make specific findings of fact, only that it make specific written conclusions with regard to the truthfulness of the reasons for dismissal. It was error for the board to vote to adopt the reasons given by the superintendent and to vote on whether or not they found them to be true. *Caldwell v. Blytheville, Ark. Sch. Dist.*, 23 Ark. App. 159, 746 S.W.2d 381 (1988).

Arbitrary and Capricious Dismissal.

A school board's action in refusing to renew a teacher's contract is arbitrary and capricious only if the board's decision is not supportable on any rational basis. *Leola Sch. Dist. v. McMahan*, 289 Ark. 496, 712 S.W.2d 903 (1986) (decision under prior law); *King v. Elkins Pub. Sch.*, 22 Ark. App. 52, 733 S.W.2d 417 (1987); *Caldwell v. Blytheville, Ark. Sch. Dist.*, 23 Ark. App. 159, 746 S.W.2d 381 (1988).

It was intended by the legislature that the teacher be apprised of any problems and permitted to respond. Where the teacher was not given prompt notice nor the opportunity to respond immediately to allegations against her, and her dismissal was based on these same complaints, the trial court was correct in finding that the board relied upon arbitrary and capricious reasons for nonrenewal. *Leola Sch. Dist. v. McMahan*, 289 Ark. 496, 712 S.W.2d 903 (1986) (decision under prior law).

In determining that the nonrenewal of the teacher's contract was arbitrary, capricious, and discriminatory, the trial court did not err in placing weight on the

fact that the superintendent originally recommended renewal and then, when asked by the board to provide more information, recommended nonrenewal, even though the recommendation of the superintendent was not binding on the board, where it was clear from the record that the recommendation was relied upon by the board members as they considered the teacher's contract. *Leola Sch. Dist. v. McMahan*, 289 Ark. 496, 712 S.W.2d 903 (1986) (decision under prior law).

Reinstatement was an appropriate remedy where the dismissal of the teacher was arbitrary, capricious, and discriminatory, even though hard feelings may be the result. *Leola Sch. Dist. v. McMahan*, 289 Ark. 496, 712 S.W.2d 903 (1986) (decision under prior law).

Where teacher's counsel vigorously argued that discharging teacher would be arbitrary and capricious, contending that the evidence failed to establish unequivocally that teacher had accused the superintendent or the others of stealing food from the cafeteria and the school's counsel argued the contrary, asserting that teacher's termination would not be arbitrary or capricious because the evidence clearly established that he had made the false accusations, and following closing arguments, the school board privately conferred and then publicly voted to discharge teacher, thereby concluding that teacher's discharge would not be arbitrary, capricious, or discriminatory because he had made the derogatory statements, and on appeal to the state court teacher challenged these findings by contending that the school board had terminated him "without valid cause" and the state court fully reviewed on the record the school board's decision to discharge him, and expressly held that the school board's action was not arbitrary, capricious, or discriminatory, the state court unquestionably addressed the teacher's due process contentions. *Gahr v. Trammel*, 796 F.2d 1063 (8th Cir. 1986) (decision under prior law).

Action was not arbitrary where there was conceivable basis for application of rule; burden of establishing arbitrary result rests with plaintiff. *McClelland v. Paris Pub. Sch.*, 294 Ark. 292, 742 S.W.2d 907, 75 A.L.R.4th 263 (1988).

School board's actions in not renewing teacher's contract held not to be arbitrary,

capricious, or discriminatory. *Caldwell v. Blytheville, Ark. Sch. Dist.*, 23 Ark. App. 159, 746 S.W.2d 381 (1988).

School board's nonrenewal of teacher's contract held to be arbitrary and capricious. *Allen v. Texarkana Pub. Sch.*, 303 Ark. 59, 794 S.W.2d 138 (1990).

Damages.

The proper measure of damages for a teacher prevailing in a contract dispute under this subchapter is the loss sustained less any mitigation earnings that may be realized through subsequent employment. *Marshall Sch. Dist. v. Hill*, 56 Ark. App. 134, 939 S.W.2d 319 (1997).

Discrimination.

Evidence showed that race was not a motivating factor in teacher's nonrenewal. *Marshall v. Kirkland*, 602 F.2d 1282 (8th Cir. 1979), criticized, *Bibbs v. Block*, 749 F.2d 508 (8th Cir. Mo. 1984) (decision under prior law).

Due Process.

Refusal of the school board to provide the names of persons making allegations and the specific nature and factual basis for charges prior to the hearing and, at the hearing, the denial of an opportunity to cross-examine available witnesses was a denial of due process not remedied by the right of appeal to the circuit court. *Casada v. Booneville School Dist.*, 686 F. Supp. 730 (W.D. Ark. 1988).

The trial court's reversal of the school board's decision to terminate a teacher was clearly erroneous and was reversed where there had been no denial of due process due to the absence from the school board proceeding of the girls accusing the teacher of sexual molestation, since the teacher's failure to raise the issue of his right to cross-examine the witnesses resulted in waiver of that right; the testimony and evidence introduced at the school board hearing supported the school board's decision to terminate the teacher. *Helena-West Helena Sch. Dist. v. Davis*, 40 Ark. App. 161, 843 S.W.2d 873 (1992), cert. denied, 313 Ark. 99, 853 S.W.2d 864 (Ark. 1993).

Intent.

Proof of intent is not required by this section. Thus nonrenewal of teacher's contract for insubordination without requiring proof of an intentional violation of

school policy was permissible. *King v. Elkins Pub. Sch.*, 22 Ark. App. 52, 733 S.W.2d 417 (1987).

Majority Vote.

The district did not strictly comply with subsection (c) of this section when the board failed to obtain a majority vote with regard to the truth of each reason given the teacher in support of the recommended termination. *Nettleton Sch. Dist. v. Owens*, 329 Ark. 367, 948 S.W.2d 94 (1997).

Nonprobationary Teachers.

A nonprobationary teacher, "aggrieved" by the action of the board had an exclusive remedy of appeal to the circuit court. *Head v. Caddo Hills Sch. Dist.*, 277 Ark. 482, 644 S.W.2d 246 (1982) (decision under prior law).

This section contemplates that notice and an opportunity to be heard be accorded before the school board's decision on the superintendent's recommendation not to renew a nonprobationary teacher's contract. *Murray v. Altheimer-Sherrill Pub. Sch.*, 294 Ark. 403, 743 S.W.2d 789 (1988), questioned, *Spainhour v. Dover Pub. Sch. Dist.*, 331 Ark. 53, 958 S.W.2d 528 (1998), questioned, *Western Grove Sch. Dist. v. Terry*, 318 Ark. 316, 885 S.W.2d 300 (1994).

Notice Required.

Although this section describes the administrative hearing process in § 6-17-1509 and this section as the "exclusive remedy" for any nonprobationary teacher aggrieved by a board decision, this procedure presupposes a proper notice of a nonrenewal recommendation by the superintendent to the teacher so that the teacher may request a hearing before board action. *Western Grove Sch. Dist. v. Terry*, 318 Ark. 316, 885 S.W.2d 300 (1994).

Particulars for nonrenewal endorsed after the hearing have no curative effect on the lack of completeness of the superintendent's original notice. *Hamilton v. Pulaski County Special Sch. Dist.*, 321 Ark. 261, 900 S.W.2d 205 (1995).

Probationary Teachers.

Under former similar law, the right of the school district to renew or decline to renew a teacher's contract on an annual basis without any accountability for that

decision still existed as to probationary teachers, and no reason at all had to be given for a nonrenewal. *Head v. Caddo Hills Sch. Dist.*, 277 Ark. 482, 644 S.W.2d 246 (1982) (decision under prior law).

Under former similar law, a probationary teacher had no statutory right to appeal from a decision of the school board to the circuit court. *Head v. Caddo Hills Sch. Dist.*, 277 Ark. 482, 644 S.W.2d 246 (1982) (decision under prior law).

A probationary teacher's remedy for an illegal termination was a suit for breach of contract. *Head v. Caddo Hills Sch. Dist.*, 277 Ark. 482, 644 S.W.2d 246 (1982) (decision under prior law).

Under a proper pleading, a probationary teacher could bring an original action in circuit court alleging that a school district had breached its contract by failing to comply with statutes and policies that could be implicitly incorporated therein. *Roberts v. Van Buren Pub. Sch.*, 773 F.2d 949 (8th Cir. 1985) (decision under prior law).

For probationary teachers, the procedures attendant upon nonrenewal are separate and distinct from those attendant on termination; probationary teachers are entitled to a hearing for termination but not for renewal. *Rogers v. Masem*, 788 F.2d 1288 (8th Cir. 1985) (decision under prior law).

A probationary teacher does not have a statutory right to appeal to circuit court the school board's decision of nonrenewal of his contract. He must therefore pursue

any common law remedies he may have. *McGee v. Armored Pub. Schs.*, 309 Ark. 59, 827 S.W.2d 137 (1992).

Statute of Limitations.

The teacher's action against the school board for dismissing her was on time barred where the teacher requested a hearing regarding the nonrenewal of her contract within 30 days of that decision, and the school board agreed to hold the hearing and reconsider its decision; this action effectively tolled the statute of limitations because the administrative process was not yet complete. *Thompkins v. Stuttgart School Dist.*, 787 F.2d 439 (8th Cir. 1986), questioned, *Flowers v. Rebo*, 675 F. Supp. 1165 (E.D. Ark. 1987) (decision under prior law).

The 75-day statute of limitations does not apply to all grievances filed by a nonprobationary teacher against the school district; it applies only to termination or nonrenewal of teacher contracts. *Bond v. Lavaca Sch. Dist.*, 73 Ark. App. 5, 38 S.W.3d 923 (2001), rev'd, 347 Ark. 300, 64 S.W.3d 249 (2001).

Cited: *Green Forest Pub. Sch. v. Herrington*, 287 Ark. 43, 696 S.W.2d 714 (1985); *Murray v. Altheimer-Sherrill Pub. Sch.*, 294 Ark. 403, 743 S.W.2d 789 (1988); *Head v. Caddo Hills Sch. Dist.*, 294 Ark. 561, 745 S.W.2d 595 (1988); *Whitfield v. Little Rock Pub. Sch.*, 25 Ark. App. 207, 756 S.W.2d 125 (1988); *Sosebee v. County Line Sch. Dist.*, 320 Ark. 412, 897 S.W.2d 556 (1995).

SUBCHAPTER 16 — MASTER SCHOOL PRINCIPAL PROGRAM

SECTION.

6-17-1601. Definitions.

6-17-1602. Master School Principal Program.

6-17-1603. Yearly incentive bonus.

SECTION.

6-17-1604. High-need school salary bonus and hold-back longevity bonus.

Publisher's Notes. Former subchapter 16, concerning teaching excellence, was repealed by Acts 1993, No. 475, § 14. The subchapter was derived from the following sources:

6-17-1601. Acts 1987, No. 822, § 1.

6-17-1602. Acts 1987, No. 822, § 2.

6-17-1603. Acts 1987, No. 822, § 3.

6-17-1604. Acts 1987, No. 822, § 6.

6-17-1605. Acts 1987, No. 822, §§ 5, 7.

6-17-1606. Acts 1987, No. 822, § 4.

6-17-1601. Definitions.

As used in this subchapter:

(1) "High-need school salary bonus" means an annual bonus to a master principal serving as a principal of a public school in phase two (2) or phase three (3) school-improvement status or located in a school district in academic distress;

(2) "Hold-back longevity bonus" means a portion of the high-need school salary bonus held back to be paid at the end of three (3) years and five (5) years of serving as a principal of the same public school in phase two (2) or phase three (3) school-improvement status or located in a school district in academic distress; and

(3) "Incentive bonus" means a bonus paid to a master principal serving as a principal of any public school in the state.

History. Acts 2003 (2nd Ex. Sess.), No. 44, § 1.

6-17-1602. Master School Principal Program.

(a) There is created the Master School Principal Program to provide training programs and opportunities to expand the knowledge base and leadership skills of public school principals.

(b) The program shall be administered by the Arkansas Leadership Academy.

(c) The program shall consist of a process of no fewer than three (3) phases developed by the academy and approved by the State Board of Education, including:

(1) Phase one (1), which shall expand the knowledge base and leadership skills of the principal;

(2) Phase two (2), which shall require the principal to apply strategies and to collect evidence of improvement in student learning and school processes; and

(3) Phase three (3), which shall require the principal to publicly demonstrate the ability and skills that lead to sustained academic improvement in a school and a school district.

(d) A school principal successfully completing the program shall be designated as a master school principal by the academy.

(e)(1) The Department of Education and the academy shall:

(A) Develop criteria for selection of candidates for the process;

(B) Review and modify, as deemed appropriate, the program performance areas; and

(C)(i) Develop a rigorous assessment process based on the performance areas.

(ii) The assessment shall include, but shall not be limited to, demonstrable, performance-based evidence of the performance areas.

(2) The number of school principals participating each year may be determined by the amount of funding available for the program.

History. Acts 2003 (2nd Ex. Sess.), No. 44, § 2.

6-17-1603. Yearly incentive bonus.

(a) The Department of Education shall promulgate rules and regulations for the nine thousand dollar (\$9,000) yearly incentive bonus provided under this section for principals receiving master school principal status.

(b) The department shall pay a yearly incentive bonus of nine thousand dollars (\$9,000) for every school year for no more than five (5) years to any building-level principal who:

(1) Receives a master school principal designation from the Arkansas Leadership Academy; and

(2) Is, at the time of receiving the bonus, employed full time as a building-level principal in an Arkansas public school district.

History. Acts 2003 (2nd Ex. Sess.), No. 44, § 3.

6-17-1604. High-need school salary bonus and hold-back longevity bonus.

(a) The Department of Education shall promulgate rules and regulations for an additional high-need school salary bonus, including a hold-back longevity bonus, for each principal receiving master school principal status and serving as a principal of a public school in phase two (2) or phase three (3) school-improvement status or located in a school district in academic distress.

(b)(1) The department shall pay a high-need school salary bonus of twenty-five thousand dollars (\$25,000) for every school year for no more than five (5) years to any building-level principal who:

(A) Receives a master school principal designation from the Arkansas Leadership Academy; and

(B) Is, at the time of receiving the bonus of twenty-five thousand dollars (\$25,000), employed full time as a building-level principal in an Arkansas public school district that is or was:

(i) A public school in phase two (2) or phase three (3) school-improvement status at the time that the master school principal began his or her employment as a master school principal of the school; or

(ii) A public school located in a school district in academic distress at the time that the master school principal began his or her employment as a master school principal of the school.

(2) The high-need school salary bonus under subdivision (b)(1) of this section shall be paid as follows:

(A) Twenty thousand dollars (\$20,000) for each school year; and

(B) An additional five thousand dollars (\$5,000) to be set aside for each qualifying school year to be paid as follows:

(i) A hold-back longevity bonus of fifteen thousand dollars (\$15,000) at the end of three (3) consecutive school years as a master school principal in the same school; and

(ii) A hold-back longevity bonus of ten thousand dollars (\$10,000) at the end of five (5) consecutive school years as a master school principal in the same school.

(3) The high-need school salary bonus with the hold-back longevity bonus payable under this section shall be paid in addition to the five-year incentive bonus allowed under § 6-17-1603, if the master principal is within the time frame for eligibility for the five-year incentive bonus.

(c) No person shall receive either a yearly incentive bonus, a salary bonus, or a longevity bonus, regardless of the person's past participation in the Master School Principal Program, if the person leaves the full-time employment as a principal of an Arkansas public school district.

History. Acts 2003 (2nd Ex. Sess.), No. 44, § 4.

SUBCHAPTER 17 — PUBLIC SCHOOL EMPLOYEE FAIR HEARING ACT

SECTION.

6-17-1701. Title.

6-17-1702. Definitions.

6-17-1703. Termination or nonrenewal — Notice.

SECTION.

6-17-1704. Immediate suspension — Notice.

6-17-1705. Hearing.

A.C.R.C. Notes. References to "this chapter" in subchapters 1-15 may not apply to this subchapter, which was enacted subsequently.

Effective Dates. Acts 1991, No. 631, § 9: Emergency failed to pass. Emergency clause provided: "It is hereby found and determined by the General Assembly that public school employees who are employed in positions not requiring a teaching license should be provided a reasonable procedure for obtaining a hearing when the superintendent recommends the person's termination or nonrenewal as an employee; and that this act is immediately necessary to protect noncertified public school employees. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1997, No. 1199, § 5: Apr. 8, 1997. Emergency clause provided: "It is found

and determined by the General Assembly of the State of Arkansas that public school employees who are employed in positions not requiring a teaching certificate/license are being presented with employment contracts including language of at will. Such language leaves the employees under written contract with their employer without the rights that traditionally accompany such a contract. This act is immediately necessary to protect classified/noncertified public school employees. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it

shall become effective on the date the last house overrides the veto.”

CASE NOTES

Cited: Kimble v. Pulaski County Special Sch. Dist., 53 Ark. App. 234, 921 S.W.2d 611 (1996).

6-17-1701. Title.

This subchapter shall be known and may be cited as the “Public School Employee Fair Hearing Act”.

History. Acts 1991, No. 631, § 1.

6-17-1702. Definitions.

As used in this subchapter:

(1) “Employee” shall mean any person employed by a school district under a written annual contract, who is not required to have a teaching certificate issued by the Department of Education as a condition of employment;

(2) “Full-time employee” means any employee who is contracted to work at least twenty (20) hours per week; and

(3) “Probationary employee” means an employee who has not completed one (1) year of employment in the school district in which he is employed. Provided that at least thirty (30) days prior to the completion of an employee’s probationary period, the superintendent of schools may recommend and the board of directors may vote that one (1) additional year of probation is necessary for an employee.

History. Acts 1991, No. 631, § 2.

6-17-1703. Termination or nonrenewal — Notice.

(a) The superintendent of a school district may recommend termination of an employee during the term of any contract or the nonrenewal of a full-time nonprobationary employee’s contract provided that he gives notice in writing, personally delivered, or by letter posted by registered or certified mail to the employee’s residence address as reflected in the employee’s personnel file.

(b) The recommendation of nonrenewal of a full-time nonprobationary employee’s contract shall be made no later than thirty (30) calendar days prior to the beginning of the employee’s next contract period.

(c) Such written notice shall include a statement of the reasons for the proposed termination or nonrenewal.

(d) The notice shall further state that an employee being recommended for termination or a full-time nonprobationary employee being

recommended for nonrenewal is entitled to a hearing before the school board of directors upon request provided that the request is made in writing to the superintendent within twenty-five (25) calendar days from receipt of the notice.

(e) It is the public policy of the State of Arkansas that employees, as defined in this subchapter, shall not be considered "at will" employees with regard to the termination of their employment, notwithstanding any contractual provision to the contrary.

History. Acts 1991, No. 631, § 3; 1997, No. 1199, § 1; 1999, No. 1314, § 1.

CASE NOTES

ANALYSIS

Applicability.

Employment at Will.

Substantial Compliance.

Applicability.

School employee was only entitled, under the Arkansas Fair Hearing Act, § 6-17-1701 et seq., to a hearing before the school board if the superintendent recommended termination of the employee's contracts; the employee was not entitled to a hearing for suspension of his job where only a suspension was in issue. *Releford v. Pine Bluff Sch. Dist. No. 3*, 355 Ark. 503, 140 S.W.3d 483 (2004).

Employment at Will.

This subchapter has not altered the employment-at-will doctrine; where em-

ployee's contract was for a definite term but was also terminable at will for any reason provided notice and a hearing were given, and employee was given notice of the reason for termination and provided a hearing, employee was not wrongfully discharged. *Kimble v. Pulaski County Special Sch. Dist.*, 53 Ark. App. 234, 921 S.W.2d 611 (1996).

Substantial Compliance.

Substantial compliance is the proper standard to apply pursuant to the Arkansas Public School Employee Fair Hearing Act. *Small v. Cottrell*, 332 Ark. 225, 964 S.W.2d 383 (1998).

Cited: *Gould Pub. Sch. v. Dobbs*, 338 Ark. 287, 993 S.W.2d 500 (1999).

6-17-1704. Immediate suspension — Notice.

(a) Nothing in this subchapter shall be construed or interpreted to preclude the superintendent from placing an employee on immediate suspension, provided he or she gives written notice of such action to the employee within two (2) school days of the suspension.

(b) The notice shall include a statement of reasons for the suspension, state whether the superintendent is recommending termination, and state that a hearing before the school board of directors is available upon request provided that the request is made in writing to the superintendent within twenty-five (25) calendar days from receipt of the notice.

History. Acts 1991, No. 631, § 4; 1999, No. 1314, § 2.

CASE NOTES

Due Process.

A superintendent does have authority to place a teacher or a noncertified district employee on suspension; however, those suspended are entitled to a hearing, and

only a school board can extend the suspension or deprive the employee of compensation. *Springdale Educ. Ass'n v. Springdale Sch. Dist.*, 133 F.3d 649 (8th Cir. 1998).

6-17-1705. Hearing.

(a) Upon receipt of a request for a hearing, the school board of directors shall conduct a hearing in accordance with the following provisions:

(1) The hearing shall take place no fewer than five (5) nor more than ten (10) days after the written request has been received by the superintendent, except that the employee and board of directors may, in writing, agree to an earlier or later hearing date; and

(2) The hearing shall be public or private at the request of the employee.

(b) The employee may be represented by persons of his or her own choosing.

(c) In hearings held concerning a recommendation for the termination of an employee's contract, either the board of directors or the employee may elect to have a record of the hearing made at the board of director's expense.

(d) In hearings held concerning a recommendation for the nonrenewal of a full-time non-probationary employee, either the board of directors or the employee may elect to have a record of the hearing made, and the expense for the record shall be shared equally between the board of directors and the employee.

(e) After the hearing, the school board of directors may terminate the employee or continue the suspension for a definite period of time. The salary of a suspended employee shall cease when the school board of directors sustains the suspension. Otherwise, the employee shall be reinstated without loss of compensation.

(f) The decision of the school board of directors shall be made within ten (10) calendar days of the hearing.

History. Acts 1991, No. 631, §§ 4, 5; 1999, No. 1314, § 3.

CASE NOTES

Due Process.

A superintendent does have authority to place a teacher or a noncertified district employee on suspension; however, those suspended are entitled to a hearing, and only a school board can extend the suspension or deprive the employee of compensation. *Springdale Educ. Ass'n v. Springdale Sch. Dist.*, 133 F.3d 649 (8th Cir. 1998).

School employee was only entitled, under the Arkansas Fair Hearing Act, § 6-17-1701 et seq., to a hearing before the school board if the superintendent recommended termination of the employee's contracts; the employee was not entitled to a hearing for suspension of his job where only a suspension was in issue.

Releford v. Pine Bluff Sch. Dist. No. 3, 355 Ark. 503, 140 S.W.3d 483 (2004).

SUBCHAPTER 18 — MINORITY TEACHER RECRUITMENT AND TRAINING PROGRAM

SECTION.

6-17-1801 — 6-17-1806. [Repealed.]

6-17-1801 — 6-17-1806. [Repealed.]

Publisher's Notes. This subchapter, concerning the Minority Teacher Recruitment and Training Program, was repealed by Acts 2001, No. 1692, § 3. The subchapter was derived from the following sources:

6-17-1801. Acts 1991, No. 858, § 1.
6-17-1802. Acts 1991, No. 858, § 2.
6-17-1803. Acts 1991, No. 858, § 3.
6-17-1804. Acts 1991, No. 858, § 4.
6-17-1805. Acts 1991, No. 858, § 5.
6-17-1806. Acts 1991, No. 858, § 6.

SUBCHAPTER 19 — MINORITY RECRUITMENT

SECTION.

6-17-1901. Minority teacher and administrator recruitment plan.
6-17-1902. Equity Assistance Center — Coordination and contents of plan.

SECTION.

6-17-1903. Minority Teacher Recruitment Advisory Council — Creation.

A.C.R.C. Notes. References to "this chapter" in subchapters 1-15 may not ap-

ply to this subchapter which was enacted subsequently.

6-17-1901. Minority teacher and administrator recruitment plan.

(a) Beginning with the 1992-1993 school year, each school district with more than five percent (5%) African-American or other minority students in the state shall prepare a minority teacher and administrator recruitment plan.

(b) The plan shall place emphasis on recruitment of African-Americans and other members of minorities for teacher and administrator positions and on encouraging minority students to pursue a career in education.

(c) Recruitment plans shall cover the next ten-year period and set forth the goal of developing equity in employee composition that reflects racial and ethnic diversity.

(d) The plan shall be a part of the equity assistance plan filed annually with the Equity Assistance Center of the Department of Education and shall be updated annually for an additional ten (10) years.

History. Acts 1991, No. 1164, § 1.

6-17-1902. Equity Assistance Center — Coordination and contents of plan.

(a) The Equity Assistance Center of the Department of Education shall provide technical assistance to the school districts in developing recruitment plans.

(b) The designated equity assistance coordinator in each school district may serve as the coordinator of the district's recruitment plan.

(c)(1) Each school district shall designate an employee to coordinate implementation of its recruitment plan.

(2) Each school district shall establish a minority teacher and administrator goal at least equal to the percentage of minority students of the school districts.

(d) The minority teacher and administrator recruitment plan shall include, but not be limited to, the following information:

(1) The goals of the school district for the recruitment of minority teachers and administrators for the next school year and for the next ten (10) school years;

(2) The steps the school district has taken to meet its goals;

(3) The progress of the school district in recruiting minority teachers and administrators;

(4) The measures the school district will use to meet its employment goals;

(5) If the school district did not meet the school district's goals for the previous reporting period, the school district shall state the reasons for not meeting the goals;

(6) The steps the school district will take to encourage minority students to pursue a career in education;

(7) The number and percentage of members of racial minorities who were employed as teachers or administrators in each of the last five (5) years; and

(8) The racial composition of the student body and the racial composition of the residents of the school district.

History. Acts 1991, No. 1164, § 1.

6-17-1903. Minority Teacher Recruitment Advisory Council — Creation.

(a) There is created a Minority Teacher Recruitment Advisory Council.

(b)(1) The council shall meet at least three (3) times a year to provide advice and counsel to the Equity Assistance Center.

(2) Members shall be appointed by the Governor.

(3) At least four (4) members of the council shall be members of a racial minority.

(4) The members of the council shall serve staggered terms of four (4) years.

(5) The members of the council shall annually elect a chair.

History. Acts 1991, No. 1164, § 2.

Publisher's Notes. Acts 1991, No. 1164, § 2 provided: "The initial board shall be appointed so that one (1) member serves a term of one (1) year, two (2)

members serve a term of two (2) years, two (2) members serve a term of three (3) years, and two (2) members serve a term of four (4) years."

SUBCHAPTER 20 — ARKANSAS TEACHERS' POSTGRADUATE SCHOLARSHIP PROGRAM ACT

SECTION.

6-17-2001 — 6-17-2004. [Repealed.]

6-17-2001 — 6-17-2004. [Repealed.]

Publisher's Notes. This subchapter, concerning the Arkansas Teachers' Postgraduate Scholarship Program Act, was repealed by Acts 2001, No. 1692, § 2. The subchapter was derived from the following sources:

6-17-2001. Acts 1993, No. 906, § 1.
6-17-2002. Acts 1993, No. 906, § 2.
6-17-2003. Acts 1993, No. 906, § 3.
6-17-2004. Acts 1993, No. 906, § 4.

SUBCHAPTER 21 — EDUCATOR COMPENSATION ACT

SECTION.

6-17-2101 — 6-17-2106. [Repealed.]

6-17-2101 — 6-17-2106. [Repealed.]

Publisher's Notes. This subchapter was repealed by Acts 2005, No. 2121, § 21. The subchapter was derived from the following sources:

6-17-2101. Acts 2001, No. 1456, § 1.
6-17-2102. Acts 2001, No. 1456, § 2.

6-17-2103. Acts 2001, No. 1456, § 3.
6-17-2104. Acts 2001, No. 1456, § 4;
2003 (1st Ex. Sess.), No. 51, § 25.
6-17-2105. Acts 2001, No. 1456, § 5.
6-17-2106. Acts 2001, No. 1456, § 6.

SUBCHAPTER 22 — CLASSIFIED SCHOOL EMPLOYEE MINIMUM SALARY ACT

SECTION.

6-17-2201. Title.
6-17-2202. Definitions.
6-17-2203. Minimum salary.
6-17-2204. Rules and regulations.

SECTION.

6-17-2205. Paid breaks for certain classified employees.
6-17-2206. Highly qualified paraprofessional bonuses.

A.C.R.C. Notes. References to "this chapter" in subchapters 1 through 20 may not apply to this subchapter, which was enacted subsequently.

Effective Dates. Acts 2007, No. 1197, § 2: Apr. 4, 2007. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkan-

sas that paraprofessionals are important to the delivery of educational services to students in the state; that the federal No Child Left Behind Act requires all paraprofessionals who provide instructional support and who work in a program supported with Title I, Part A funds to meet certain federal qualification requirements

to achieve highly qualified paraprofessional status; that this act is immediately necessary to authorize the Department of Education to provide bonuses for all paraprofessional employees who have attained the highly qualified status. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and

safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

6-17-2201. Title.

This subchapter shall be known and may be cited as the "Classified School Employee Minimum Salary Act".

History. Acts 2001, No. 1138, § 1.

RESEARCH REFERENCES

U. Ark. Little Rock L. Rev. Survey of Legislation, 2001 Arkansas General Assembly, Education Law, 24 U. Ark. Little Rock L. Rev. 453.

6-17-2202. Definitions.

As used in this subchapter, unless the context otherwise requires:

(1) "Classified employee" means any employee of a public school district in Arkansas who performs work for the school district and who is not required to hold a valid teaching license issued by the State Board of Education as a condition of employment; and

(2) "Full-time classified employee" means any classified employee who works twenty (20) or more hours per week for the public school district.

History. Acts 2001, No. 1138, § 1.

6-17-2203. Minimum salary.

(a) A full-time classified employee shall not receive an hourly rate of compensation less than six dollars twenty-five cents (\$6.25) per hour.

(b) No classified employee's hourly rate of compensation shall be reduced as a result of this subchapter.

(c) Beginning July 1, 2003, and each year thereafter, the minimum hourly rate provided in this subchapter shall be increased by a percentage equal to the percentage increase of the consumer price index.

History. Acts 2001, No. 1138, § 1; 2003, No. 1773, § 1.

6-17-2204. Rules and regulations.

The State Board of Education is authorized to promulgate rules and regulations to establish a method of determining whether a classified employee shall be considered to work twenty (20) or more hours per week.

History. Acts 2001, No. 1138, § 1.

6-17-2205. Paid breaks for certain classified employees.

For those classified employees working more than twenty (20) hours per week:

(1)(A) Each school district in the state shall provide no fewer than two (2) paid fifteen-minute breaks during each regular workday for each classified school employee.

(B) The contract day shall not be extended to provide for this section; and

(2) Each school district shall file an affidavit for compliance with the Department of Education regarding the Fair Labor Standards Act for classified employees unless the school district policies or state laws impose higher standards.

History. Acts 2003, No. 1752, § 1.

section, is codified as 29 U.S.C. § 201 et

U.S. Code. The federal Fair Labor
Standards Act of 1938, referred to in this

seq.

6-17-2206. Highly qualified paraprofessional bonuses.

(a)(1) The purpose of this section is to provide a bonus from the Department of Education in recognition of the efforts made by paraprofessional employees who attain highly qualified status.

(2) A person who is eligible for a bonus under this section may receive a bonus under subsection (b) or (c) of this section but shall not receive a bonus under both subsections.

(3) The bonuses under this section are contingent upon the appropriation and availability of funding.

(b) A paraprofessional who is under a contract of employment with a public school district or education service cooperative as a paraprofessional employee on May 1, 2007, and who holds an associate degree or higher degree shall be considered a highly qualified paraprofessional and shall receive a one-time bonus of one thousand dollars (\$1,000).

(c) A paraprofessional who is under a contract of employment with a public school district or education service cooperative as a paraprofessional employee on May 1, 2007, shall be considered a highly qualified paraprofessional and shall receive a one-time bonus of five hundred dollars (\$500) if he or she has:

(1) Completed sixty (60) hours of coursework at an institution of higher education; or

(2) Passed the high-stakes test for highly qualified status.

History. Acts 2007, No. 1197, § 1.

SUBCHAPTER 23 — PERSONNEL POLICY LAW FOR CLASSIFIED EMPLOYEES

SECTION.

6-17-2301. Requirement.

6-17-2302. Applicability.

6-17-2303. Committee for each school district.

6-17-2304. Incorporation into employee contracts.

SECTION.

6-17-2305. Organization and duties of committee.

6-17-2306. Copies furnished classified employees.

A.C.R.C. Notes. References to “this chapter” in subchapters 1 through 20 may not apply to this subchapter, which was enacted subsequently.

Effective Dates. Acts 2005, No. 951, § 2: Mar. 18, 2005. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that the current personnel policy law for classified school employees is inadequate to protect the public’s interests in public school districts; that there is a pressing and urgent need to revise the personnel policy law for classified school employees; and that this act is immediately necessary because it will ensure

classified employees may fairly participate to the full extent of the law in the development of personnel policies for 2005-2006 contracts. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

6-17-2301. Requirement.

(a) Each school district in the State of Arkansas shall have a set of written personnel policies, including the salary schedule for classified employees.

(b) For the purposes of this subchapter, there shall be five (5) classifications of classified employees as provided in § 6-17-2303.

(c) Personnel policies of concern to the classified personnel policies committee shall include, but are not limited to, the following terms and conditions of employment:

- (1) Salary schedule, fringe benefits, and other compensation issues;
- (2) Annual school calendar, including work days and holidays;
- (3) Evaluation procedures;
- (4) Leave;
- (5) Grievance procedures;
- (6) Termination, nonrenewal, or suspension;
- (7) Reduction in force; and
- (8) Assignments.

(d)(1) No school district shall receive in any year any funds from the Public School Fund until the school district has filed by the established deadline its current personnel policies for classified employees signed

by the president of the school board, including any salary schedules as required by this subchapter.

(2) The policies and schedules shall be filed with the Department of Education no later than September 15 of each year.

(e) The department shall notify any school district that has not filed its policies in accordance with this section.

History. Acts 2003, No. 1780, § 1; 2005, No. 951, § 1. “each classification of classified personnel in the schools” in (a); substituted “employees” for “personnel” in (b); rewrote (c); and added (d) and (e).

Amendments. The 2005 amendment substituted “classified employees” for

6-17-2302. Applicability.

(a) The provisions of this subchapter shall not apply if the school district chooses to officially recognize in its policies an organization representing the majority of the nonmanagement classified employees of the school district for the purpose of negotiating personnel policies, salaries, and educational matters of mutual concern under a written policy agreement.

(b)(1) “Classified employee” means any person employed by a school district under a written annual contract who is not required to have a teaching certificate issued by the Department of Education as a condition of employment.

(2) “Classified employee administrator” means any classified or certified employee who evaluates nonmanagement classified employees and any classified employee who supervises but does not evaluate other classified employees if the nonmanagement classified employees exclude them.

(3) “Nonmanagement classified employee” means any classified employee who does not evaluate other classified employees. The nonmanagement classified employees in a school district, at their discretion in an election conducted in accordance with § 6-17-2303(c), include in this definition classified employees who supervise but do not evaluate other classified employees.

History. Acts 2003, No. 1780, § 2; 2005, No. 951, § 1. substituted “non-management classified employees” for “classified personnel” in present (a); and added (b).

Amendments. The 2005 amendment inserted the subdivision (a) designation;

6-17-2303. Committee for each school district.

(a)(1) Each school district shall have a committee on personnel policies for classified employees which consist of at least one (1) nonmanagement classified representative from each of the following (5) classifications:

- (A) Maintenance and operation;
- (B) Transportation;
- (C) Food service;
- (D) Secretary and clerk; and

(E) Aides and paraprofessionals.

(2) All other job classifications of classified employees not identified in the five (5) classifications may be grouped together and added as an at-large classification and shall have at least one (1) nonmanagement classified representative on the committee on classified personnel policies.

(b) There shall be no more than three (3) classified employee administrators on the committee, one (1) of whom may be the superintendent of schools. The classified employee administrators on the committee shall be appointed by the school board of directors or its designee.

(c) The nonmanagement classified employee member of the committee shall be elected by a majority of all nonmanagement classified employees voting by secret ballot.

(d) The election shall be conducted solely and exclusively by the nonmanagement classified employees, including distribution of ballots to all nonmanagement classified employees.

(e) The election shall be conducted by mid-October.

(f) There shall be no additional monetary compensation for service on the committee.

History. Acts 2003, No. 1780, § 3; 2005, No. 951, § 1.

Amendments. The 2005 amendment, in (a)(1), substituted “employees” for “personnel” and inserted “classified”; rewrote (a)(2); in (b), inserted “classified employee” in the first sentence and added the

second sentence; substituted “non-management classified employee” for “classified personnel” in (c); substituted “non-management classified employees” for “classified personnel” in (c) and twice in (d); and added (f).

6-17-2304. Incorporation into employee contracts.

(a) The personnel policies of each school district shall be considered to be incorporated as terms of the classified employees’ contracts and shall be binding upon the classified employees and the school district.

(b)(1) Any changes or additions to the personnel policies shall not be considered a part of classified employee contracts until the next fiscal year.

(2)(A) Any changes or additions to the personnel policies may take effect before the next fiscal year only if the changes or additions are approved by a majority of the classified employees employed by the school district voting by secret ballot.

(B) The voting and counting of ballots shall be conducted by the classified personnel policy committee.

(3) All changes or additions to the classified personnel policies or new personnel policies shall be made in accordance with this subchapter.

History. Acts 2003, No. 1780, § 4; 2005, No. 951, § 1.

Amendments. The 2005 amendment

rewrote (a) and (b)(1); and added (b)(2) and (3).

6-17-2305. Organization and duties of committee.

(a) The school district's committee on personnel policies for classified employees shall organize itself in October, elect a chair and secretary, and develop a calendar of meetings throughout the year to review the school district's personnel policies to determine whether additional policies or amendments to existing policies are needed.

(b) Minutes of the committee meetings shall be promptly reported and distributed to members of the board of directors and posted in the work sites of the school district, including administrative offices.

(c) Either the committee or the board of directors may propose new personnel policies or amendments to existing policies if the proposals by the board of directors have been submitted to the committee at least ten (10) working days prior to presentation to the board of directors. The superintendent may recommend any changes in personnel policies to the board of directors or the personnel policies committee. The recommendations shall become proposals if adopted by either the board of directors or committee.

(d) The chair of the committee or a committee member designated by the chair shall have the opportunity to orally present the committee's proposed policies or amendments to existing policies to the board of directors.

(e) After presentation to the board of directors, final action shall be taken no later than the next regular board of directors meeting.

(f) The board of directors shall have the authority to adopt, reject, or refer to the committee on personnel policies for further study and revision any proposed policies or amendments to existing policies that are submitted to the board of directors for consideration.

History. Acts 2003, No. 1780, § 5; 2005, No. 951, § 1.

Amendments. The 2005 amendment added the last two sentences in (c); and substituted "chair of the committee or a

committee member designated by the chair shall have the opportunity to orally present the committee's" for "committee shall present the committee's" in (d).

6-17-2306. Copies furnished classified employees.

(a)(1) Each classified employee being employed by a school district for the first time shall be given a copy of the school district's personnel policies in effect at the time of his or her employment.

(2) A digital copy provided to an employee or an online copy that is accessible by Internet or intranet will meet the requirements of subdivision (a)(1) of this section.

(3) A hard copy of all classified policies shall be available to review at each work location.

(4) The individual employee shall be offered the choice of a hard copy or a digital copy.

(b)(1) Each classified employee shall be furnished a copy of any amendments to the personnel policies within thirty (30) days after

approval of the amendments by the board of directors of the school district.

(2) A digital copy provided to an employee or an online copy that is accessible by Internet or intranet will meet the requirements of subdivision (b)(1) of this section.

(3) A hard copy of all amendments shall be available for review at each work location.

(4) The individual employee shall be offered the choice of a hard copy or a digital copy.

History. Acts 2003, No. 1780, § 6; 2005, No. 951, § 1.

Amendments. The 2005 amendment

inserted the subdivision (1) designation in (a); added present (a)(2)-(4); rewrote (b); and deleted former (c).

SUBCHAPTER 24 — TEACHER COMPENSATION PROGRAM OF 2003

SECTION.

6-17-2401. Title.

6-17-2402. Definitions.

6-17-2403. Minimum teacher compensation schedule.

6-17-2404. [Repealed.]

SECTION.

6-17-2405. Future adjustments of the compensation system.

6-17-2406. Applicability of teacher salary schedule.

6-17-2407. Reduction in force procedure.

Effective Dates. Acts 2003 (2nd Ex. Sess.), No. 59, § 6, provided: "This act shall become effective on July 1, 2004."

Acts 2003 (2nd Ex. Sess.), No. 74, § 4: Feb. 4, 2004. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the Arkansas Supreme Court in *Lake View School District No. 25 v. Huckabee*, 351 Ark. 31 (2002) declared the current system of education to be unconstitutional because it is both inequitable and inadequate; and the Arkansas Supreme Court set forth the test for a constitutional system to be one in which the State has an 'absolute duty' to provide an 'equal opportunity to an adequate education'; the Arkansas Supreme Court instructed the General Assembly to undertake actions as necessary to provide an opportunity for an adequate and equitable education for the children of Arkansas; and the provisions of this bill are necessary steps toward accomplishing that goal. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by

the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2005, No. 1777, § 2: Apr. 6, 2005. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the Arkansas Supreme Court in *Lake View School District No. 25 v. Huckabee*, 351 Ark. 31 (2002) declared the current system of education to be unconstitutional because it is both inequitable and inadequate; and the Arkansas Supreme Court set forth the test for a constitutional system to be one in which the state has an 'absolute duty' to provide an 'equal opportunity to an adequate education'; the Arkansas Supreme Court instructed the General Assembly to undertake actions as necessary to provide an opportunity for an adequate and equitable education for the children of Arkansas; and the provisions of this act are necessary steps toward accomplishing that goal. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its ap-

proval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2005, No. 2130, § 2: Apr. 13, 2005. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that to provide an opportunity for adequate education for the children of Arkansas the schools must have good quality teachers in the classrooms; that increases in teacher's salaries are necessary to attract and retain good quality teachers; that changes in teacher salary requirements must be in place before May 1 of each year to ensure that changes may be incorporated into teacher contracts in a timely manner; and that this act is immediately necessary because school districts and teachers need sufficient notice of salary changes to negotiate and enter into contracts for the upcoming school year. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2005, No. 2149, § 2: Apr. 13, 2005. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the current personnel law for school districts is inadequate to protect the public's interests in public school districts; and that there is a pressing and urgent need to revise the personnel law prior to the time school districts make employment decisions for the 2005-2006 school year to avoid arbitrary reduction in force decisions by school districts should such reductions become necessary for the 2005-2006 school year. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the

expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2006 (1st Ex. Sess.), No. 19, § 10: Apr. 11, 2006. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the Arkansas Supreme Court declared the public school funding system to be inadequate and that public schools are operating under a constitutional infirmity which must be corrected immediately; that to correct the constitutional infirmity and to ensure adequate funding for public education, the General Assembly must revise the public school funding formula, revise laws regarding public school facilities, provide funding for retirement increases and limit additional increases; and enact other necessary reform measures; and that this act is immediately necessary to ensure that reform measures are available to public schools for the 2005-2006 and 2006-2007 school years. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2007, No. 272, § 10: July 1, 2007. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the 2006 Act 57 study recommended that foundation funding and categorical funding be increased for the 2007-2008 and 2008-2009 school years; that the method of calculating the state foundation funding aid should be changed to ensure that all public school districts receive the full amount of foundation funding; and that this act is immediately necessary to ensure that public school districts receive adequate foundation funding for the 2007-2008 school year. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2007."

6-17-2401. Title.

This subchapter shall be known and may be cited as the “Teacher Compensation Program of 2003”.

History. Acts 2003 (2nd Ex. Sess.), No. 59, § 2.

6-17-2402. Definitions.

As used in this subchapter:

(1) “Basic contract” means a teacher employment contract for one hundred ninety (190) days that includes ten (10) days of professional development; and

(2) “Teacher” means:

(A) An individual who is required to hold a teaching license from the Department of Education and who is engaged directly in instruction with students in a classroom setting for more than seventy percent (70%) of the individual’s contracted time;

(B) A guidance counselor; or

(C) A librarian.

History. Acts 2003 (2nd Ex. Sess.), No. 59, § 2; 2003 (2nd Ex. Sess.), No. 74, § 1.

6-17-2403. Minimum teacher compensation schedule.

(a) The board of directors in each school district in the state shall pay classroom teachers upon a minimum salary schedule that provides:

(1) Annual increments for education and experience;

(2) A base salary; and

(3) A minimum salary for a teacher with a master’s degree and at least fifteen (15) years’ experience.

(b) In school year 2007-2008, each school district in the state shall have in place a salary schedule with at least the following minimum levels of compensation for a basic contract:

Years of Experience	BA Degree Salary	MA Degree Salary
0	\$28,897	\$33,231
1	29,347	33,731
2	29,797	34,231
3	30,247	34,731
4	30,697	35,231
5	31,147	35,731
6	31,597	36,231
7	32,047	36,731
8	32,497	37,231
9	32,947	37,731
10	33,397	38,231

Years of Experience	BA Degree Salary	MA Degree Salary
11	33,847	38,731
12	34,297	39,231
13	34,747	39,731
14	35,197	40,231
15	35,647	40,731

(c) In school year 2008-2009 and each school year thereafter, each school district in the state shall have in place a salary schedule with at least the following minimum levels of compensation for a basic contract:

Years of Experience	BA Degree Salary	MA Degree Salary
0	\$29,244	\$33,630
1	29,694	34,130
2	30,144	34,630
3	30,594	35,130
4	31,044	35,630
5	31,494	36,130
6	31,944	36,630
7	32,394	37,130
8	32,844	37,630
9	33,294	38,130
10	33,744	38,630
11	34,194	39,130
12	34,644	39,630
13	35,094	40,130
14	35,544	40,630
15	35,994	41,130

(d)(1) For purposes of the salary schedules described in this section, the teacher's experience is his or her total years' experience as a teacher with a valid Arkansas teaching license and teaching at any:

(A) Public school accredited by the Department of Education or a nationally recognized accrediting association;

(B) Private school within the State of Arkansas accredited by a nationally recognized accrediting association;

(C) Institution of higher education within the State of Arkansas accredited by a nationally recognized higher education institution accrediting association; or

(D) Any facility operated by the Division of Youth Services or any facility contracting with the division to provide care for juveniles committed to the division.

(2) A teacher's years of experience shall be based upon:

(A) The years in the school district in which the teacher is employed when the salary schedule in this section is considered; and

(B) The teacher's years of experience with a valid Arkansas teaching license at an institution in subdivision (d)(1) of this section.

(3) For purposes of this section, "years of service" means:

(A) Performing the full-time duties of a teacher for a full school year with a valid Arkansas teaching license;

(B) Years of employment with an Arkansas public school in a full-time position that requires that the teacher have an Arkansas teaching license; or

(C) Years of employment in an educational capacity with an institution in subdivision (d)(1)(C) of this section with a valid Arkansas teaching license.

(e)(1) A teacher is entitled to additional pay if the number of days in the teacher's contract for the 2005-2006 school year exceeds the number of days in the teacher's contract for the 2004-2005 school year.

(2) The additional pay is at least equal to the number of additional contract days under subdivision (e)(1) of this section multiplied by the daily rate calculated using the teacher's 2004-2005 salary.

(3) A teacher is entitled to additional pay if the number of days in the teacher's contract for the 2006-2007 school year exceeds the number of days in the teacher's contract for the 2005-2006 school year.

(4) The additional pay is at least equal to the number of contract days for the 2006-2007 school year exceeding the number of days in the teacher's contract for the 2005-2006 school year multiplied by the daily rate calculated using the teacher's 2005-2006 salary.

(f) For purposes of this section, "daily rate" means the teacher contract salary divided by the number of days in the teacher contract.

History. Acts 2003 (2nd Ex. Sess.), No. 59, § 2; 2003 (2nd Ex. Sess.), No. 74, § 2; 2005, No. 2130, § 1; 2005, No. 2307, § 1; 2006 (1st Ex. Sess.), No. 19, § 2; 2007, No. 272, § 7; 2007, No. 833, § 1; 2007, No. 1410, § 1.

A.C.R.C. Notes. Acts 2007, No. 272, § 1, provided:

"ACT 57 COMPLIANCE.

"The General Assembly declares this act to be in concordance with the study of the state's system of public education conducted in 2006 by the Adequacy Study Oversight Subcommittee, the House Interim Committee on Education, and the Senate Interim Committee on Education in compliance with Act 57 of the Second Extraordinary Session of 2003."

Acts 2007, No. 272, § 8, provided: "The amendment to the minimum teacher compensation schedule contained in Section 5 of this act reflects the overall increase in foundation funding. This amendment is a significant step in closing the teacher salary gap. The increased minimum teacher compensation schedule helps in recruiting

and retaining teachers in Arkansas. Most importantly, it makes Arkansas more competitive for quality teachers when compared to surrounding states and Southern Regional Education Board member states."

Acts 2007, No. 272, § 9, provided: "The document attached hereto titled 'Education Funding Recommendations for the 2007-2009 Biennium', contains the Education Funding Recommendations of the Adequacy Study Oversight Subcommittee, the House Interim Committee on Education, and the Senate Interim Committee on Education. Since January 22, 2007, when those recommendations were adopted by the House Education Committee and the Senate Education Committee, some calculation errors were identified and recalculations were made. The recalculations are also contained in this document in narrative form. This document and its final recommendations are specifically adopted by the House Education Committee and the Senate Education Committee and recommended to the Gen-

eral Assembly. The document, 'Education Funding Recommendations for the 2007-2009 Biennium', shall be filed in the journals of the House and Senate."

Amendments. The 2005 amendment by No. 2130, in (b), inserted "and 2005-2006" and substituted "BA Degree Salary" for "BA Degree Select"; added (c); redesignated former (c) and (d) as present (d) and (e); added (e)(3) and (4); and deleted former (e).

The 2005 amendment by No. 2307 redesignated former (d) as present (d)(1); substituted "of experience ... teaching at any" for "in any school district in the state and shall not be based only upon the years in the school district in which he or she is

currently employed" in present (d)(1); and added (d)(1)(A)-(d)(1)(C) and (d)(2) and (d)(3).

The 2006 (1st Ex. Sess.) amendment substituted "year 2004-2005" for "years 2004-2005 and 2005-2006" in (b)(1); added (b)(2); and rewrote the compensation levels in (c).

The 2007 amendment by No. 272 rewrote (b) and (c).

The 2007 amendment by No. 833 inserted (d)(1)(D) and made related changes.

The 2007 amendment by No. 1410 added (d)(3)(C) and made a related change.

6-17-2404. [Repealed.]

Publisher's Notes. This section, concerning knowledge-based and skills-based pay, was repealed by Acts 2005, No. 2121,

§ 5. The section was derived from Acts 2003 (2nd Ex. Sess.), No. 59, § 2.

6-17-2405. Future adjustments of the compensation system.

Each biennium, the House Interim Committee on Education and the Senate Interim Committee on Education shall analyze the compensation levels provided in this subchapter, review relevant data, and make recommendations to the General Assembly for any adjustments to the compensation levels as needed to further the objective provided in § 6-17-2402.

History. Acts 2003 (2nd Ex. Sess.), No. 59, § 2.

6-17-2406. Applicability of teacher salary schedule.

(a) As used in this section, "teacher" means any full-time employee of the C-Step Program or the Arkansas National Guard Youth Challenge Program, or both:

(1) Who is compelled by law to secure a license from the State Board of Education as a condition precedent to employment in a position in or related to grades prekindergarten through twelve (preK-12); and

(2) Who is:

(A) Engaged directly in instruction with students in a classroom setting for more than seventy percent (70%) of the individual's contracted time;

(B) A guidance counselor; or

(C) A librarian or media specialist.

(b) To the extent that funds are specifically appropriated by the General Assembly, any teacher employed by the C-Step Program or the Arkansas National Guard Youth Challenge Program, or both, shall be paid no less than the amounts set forth under this subchapter.

(c) Nothing in this section shall be construed to require a school district to pay the salary of any teacher who is not an employee of the school district or to require that teachers be paid from any state funds other than as appropriated by the General Assembly.

History. Acts 2005, No. 1777, § 1.

6-17-2407. Reduction in force procedure.

(a) It is the public policy of the State of Arkansas that each school district shall have a written policy on reduction in force based upon objective criteria for a layoff and recall of employees.

(b) A “layoff” is an unavoidable reduction in the workforce beyond normal attrition.

History. Acts 2005, No. 2149, § 1.

SUBCHAPTER 25 — ARKANSAS TEACHER OF THE YEAR ACT

SECTION.

6-17-2501. Title.

6-17-2502. Definitions.

6-17-2503. Arkansas Teacher of the Year Program.

6-17-2504. School district responsibility.

SECTION.

6-17-2505. Department of Education responsibility.

6-17-2506. Nonvoting member of the State Board of Education.

Effective Dates. Acts 2006 (1st Ex. Sess.), No. 17, § 2: Apr. 11, 2006. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that the Arkansas Supreme Court found that the public school funding system continues to be inadequate and the public schools are operating under a constitutional infirmity which must be corrected immediately; that direct quality teacher instruction and quality professional teacher development are among those necessary core components for an adequate education; that the General Assembly has determined that the provisions of this act are in compliance

with the mandate of the Arkansas Supreme Court; and that the provisions of this act must be implemented immediately for the good of public school students in Arkansas. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

6-17-2501. Title.

This subchapter shall be known and may be cited as the “Arkansas Teacher of the Year Act”.

History. Acts 2006 (1st Ex. Sess.), No. 17, § 1.

6-17-2502. Definitions.

As used in this section:

(1) "Classroom teacher" means a person who:

(A) Is required to be licensed under § 6-17-401 et seq.;

(B) Is engaged directly in instruction with students in a classroom setting for more than seventy percent (70%) of the person's contracted time; and

(C) Is not a guidance counselor or librarian;

(2) "In residence" means working exclusively with the Department of Education at a location agreed upon between the department and the Arkansas Teacher of the Year;

(3) "School district board of directors" means the local board of directors of a school district who are duly elected and qualified to hold office pursuant to § 6-13-604 et seq.; and

(4) "Superintendent" means the executive officer of a school district board of directors directing the affairs of the school district and teaching not more than one-half ($\frac{1}{2}$) of the time in the school day.

History. Acts 2006 (1st Ex. Sess.), No. 17, § 1.

6-17-2503. Arkansas Teacher of the Year Program.

(a)(1) The Department of Education shall develop a process for selecting the Arkansas Teacher of the Year.

(2) This process shall work in conjunction with and in support of the process for selecting a National Teacher of the Year.

(b) The process shall allow that each Arkansas school district board of directors may submit a single applicant for the Arkansas Teacher of the Year.

(c) The applicants shall be reduced to sixteen (16) finalists representing one (1) applicant for each of the fifteen (15) education service areas and one (1) applicant for school districts in Pulaski County.

(d) In submitting an application for Arkansas Teacher of the Year, a school district agrees that if its applicant is selected, the school district shall place that teacher on paid administrative leave for the school year immediately following his or her selection, as provided in § 6-17-2504.

(e) While on paid administrative leave, the teacher shall:

(1) Work in residence with the department to:

(A) Create professional development programs for other teachers;

(B) Provide educational technical assistance to students and teachers statewide;

(C) Enhance the Arkansas Teacher of the Year Program; and

(D) Enhance the quality of elementary and secondary education in Arkansas; and

(2) Represent the state in the National Teacher of the Year competition.

(f) During the school year in which a school district's Arkansas Teacher of the Year is on paid administrative leave, the department shall reimburse the school district as provided in § 6-17-2505.

History. Acts 2006 (1st Ex. Sess.), No. 17, § 1.

6-17-2504. School district responsibility.

(a) Each school district whose applicant is selected as Arkansas Teacher of the Year shall place that teacher on paid administrative leave for the school year immediately following the teacher's selection as Arkansas Teacher of the Year for the time period that the teacher actually serves as the Arkansas Teacher of the Year.

(b) The teacher shall be entitled to return to his or her former employment with the school district for the school year following the paid administrative leave provisions of this section.

(c) The school district shall be responsible for providing a replacement teacher or restructuring class loads during the school year in which the teacher selected as Arkansas Teacher of the Year is on administrative leave.

(d) A school district that employs a substitute teacher to replace the Arkansas Teacher of the Year shall not be subject to any earning limitations set in place by law or the Arkansas Teacher Retirement System.

(e) Each school district classroom teacher contract shall reflect the administrative leave provisions of this section for any teacher selected as Arkansas Teacher of the Year.

History. Acts 2006 (1st Ex. Sess.), No. 17, § 1.

6-17-2505. Department of Education responsibility.

(a) During the school year in which a school district's Arkansas Teacher of the Year is on paid administrative leave, the Department of Education shall reimburse the school district for:

(1) The teacher's salary and benefits; and

(2)(A) Incidental expenses incurred by the teacher as a result of his or her participation in the Arkansas Teacher of the Year Program.

(B) All incidental expenses shall be approved by the department.

(b) The department shall be responsible for the reimbursement of any incidental expenses incurred by the teacher during the implementation of the program for the current year.

(c) The department may receive private donations, grants, or other forms of assistance to help fund any aspect of the program.

(d) The State Board of Education shall promulgate rules as necessary to administer the provisions of this section.

History. Acts 2006 (1st Ex. Sess.), No. 17, § 1.

6-17-2506. Nonvoting member of the State Board of Education.

(a) While serving as Arkansas Teacher of the Year, the teacher shall also serve in an advisory position as a nonvoting member of the State Board of Education.

(b) The teacher shall provide a written advisory report to the state board on how to better provide teacher professional development and student instruction assistance for Arkansas public school teachers.

(c) The teacher shall not be entitled to any compensation or per diem for serving as a nonvoting member of the state board.

(d) As a nonvoting member of the state board, the Arkansas Teacher of the Year shall be immune from any liability with regard to any act or omission of the state board.

History. Acts 2006 (1st Ex. Sess.), No. 17, § 1.

SUBCHAPTER 26 — LIFETIME TEACHING LICENSE

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6-17-2601. Purpose.
6-17-2602. Definitions.
6-17-2603. Eligibility.
6-17-2604. Lifetime teaching license.

SECTION.

6-17-2605. Employment by a public school district.
6-17-2606. Rules — Reports.

6-17-2601. Purpose.

The purpose of this subchapter is to provide a lifetime teaching license to:

(1) Recognize individuals who have made significant contributions to education or the profession of teaching through educational research, scholarly endeavors, excellence in teaching, educational innovation, or years of teaching experience; and

(2) Promote role models in the field of education.

History. Acts 2007, No. 169, § 1.

6-17-2602. Definitions.

As used in this subchapter:

(1) “Educational setting” means the employment setting where the certified employee works, including without limitation:

- (A) A public or private school;
- (B) An institution of higher education;
- (C) An education service cooperative;
- (D) The Department of Education;
- (E) An adult education setting; or

(F) Another agency or organization that employs licensed teachers for educational purposes;

(2) "Professional development" means a coordinated set of planned, learning development activities for teachers that are standards-based and that meet the focus areas for professional development required by the department; and

(3) "Teaching experience" means the experience gained while working in an educational setting as a teacher, librarian, counselor, administrator, educational consultant, substitute teacher, or other certified employee.

History. Acts 2007, No. 169, § 1.

6-17-2603. Eligibility.

To be eligible for a lifetime teaching license, the certified employee must:

(1) Hold a current Arkansas teaching license;

(2) Be over sixty-five (65) years of age; and

(3)(A) Have worked in an educational setting while maintaining an Arkansas teaching license; or

(B) Have made significant contributions to education, educational research, or the profession of teaching through scholarly endeavors, teaching experience, excellence in teaching, or educational innovation.

History. Acts 2007, No. 169, § 1.

6-17-2604. Lifetime teaching license.

(a) Beginning July 1, 2008, a person who meets the eligibility requirements of § 6-17-2603 and who wishes to obtain a lifetime teaching license shall apply for the lifetime teaching license within twelve (12) calendar months after his or her sixty-fifth birthday.

(b)(1) The State Board of Education shall review the application.

(2) If the state board approves the application, it shall continue the applicant's current license as a lifetime teaching license.

(3) Lifetime teaching license applicants are subject to a criminal background check upon application.

(c) Except as provided in subsection (d) of this section, the lifetime teaching license shall be reissued every five (5) years.

(d) A lifetime teaching license is subject to the same laws for revocation as any Arkansas teaching license.

(e) A person who holds a lifetime teaching license is not required to renew his or her teaching license.

(f)(1) A lifetime teaching license holder is not subject to the requirements for annual professional development.

(2) An eligible person who retired prior to July 31, 2007, is not subject to future professional development requirements.

History. Acts 2007, No. 169, § 1.

6-17-2605. Employment by a public school district.

- (a) A lifetime teaching license holder is eligible to serve as a substitute teacher and as a tutor.
- (b) A lifetime teaching license holder who becomes employed by a school district shall participate in the professional development programs required by the employing school district.
- (c) A lifetime teaching license holder who has not taught in an educational setting for one (1) or more years shall be required to provide to the Department of Education verification of twenty (20) hours of professional development prior to reentering the educational setting.

History. Acts 2007, No. 169, § 1.

6-17-2606. Rules — Reports.

The Department of Education shall:

- (1) Develop rules to implement the provisions of this subchapter; and
- (2) Report annually to the General Assembly regarding compliance with each item set forth in this subchapter.

History. Acts 2007, No. 169, § 1.

SUBCHAPTER 27 — SCIENCE, TECHNOLOGY, ENGINEERING, AND MATH FUND

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6-17-2702. Determination of eligibility.	
6-17-2703. Application process.	

Cross References. Science, Technology, Engineering, and Math Fund, § 19-5-1235.

6-17-2701. Legislative intent.

The General Assembly finds:

- (1) Achievement and enthusiasm of Arkansas students in the areas of science, technology, engineering, and math is a critical step in preparing the State of Arkansas for a workforce with the skills necessary to compete economically in the twenty-first century workplace and to prepare the children of this state for high-paying competitive jobs;
- (2) Currently more than fifty percent (50%) of Arkansas students who go straight to college require remedial courses in both math and English;
- (3) In fiscal year 2003-2004, Arkansas expended over forty-eight million dollars (\$48,000,000) on student remediation;

(4) In 2005, of the five thousand four hundred thirty-four (5,434) students who took math and science Advanced Placement (AP) courses, only twenty-six and six-tenths percent (26.6%) of those students received a passing score while nationally, passage rates ranged between fifty-six percent (56%) for chemistry to eighty percent (80%) for calculus;

(5) Students' completion of high school math courses beyond Algebra II significantly increases the probability that the student will earn a bachelor's degree;

(6) Approximately four thousand (4,000) of the seven thousand four hundred thirty-three (7,433) certified teachers in Arkansas are actively teaching science, technology, engineering, and math-related courses and may qualify for the science, technology, engineering, and math supplemental income grant; and

(7) Because of the significant difference in income between science, technology, engineering, and math teachers and what they can make in industry, it is essential to:

(A) Reduce the loss of science, technology, engineering, and math teachers to industry;

(B) Entice science, technology, engineering, and math teachers back to the classroom; and

(C) Encourage students to enter the science, technology, engineering, and math teaching professions by supplying supplemental grant income to science, technology, engineering, and math teachers.

History. Acts 2007, No. 564, § 1.

6-17-2702. Determination of eligibility.

(a) The Arkansas Economic Development Commission, in coordination with the Department of Education, shall promulgate rules governing the eligibility of teachers of science, technology, engineering, or math to receive a supplemental grant from the Science, Technology, Engineering, and Math Fund.

(b) Rules shall be promulgated in accordance with the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

History. Acts 2007, No. 564, § 3.

6-17-2703. Application process.

(a) Certified math and science teachers who are currently teaching science, technology, engineering, and math subjects in kindergarten through grade twelve (K-12) may apply to the Arkansas Economic Development Commission for a supplemental grant from the Science, Technology, Engineering, and Math Fund for that portion of the day in which they are teaching science, technology, engineering, or math subjects or laboratories.

(b) Selection and identification of qualified science, technology, engineering, and math teachers shall be coordinated with the Department

of Education for identification of qualified science, technology, engineering, and math teachers.

(c) Applications for supplemental grants from the Science, Technology, Engineering, and Math Fund shall be made to the commission by February 1 and September 1 of each year.

(d) The application shall be made on forms prepared by the commission.

(e) The application shall be accompanied by a letter of certification, on a form to be provided by the commission, from the principal of the school in which the science, technology, engineering, or math teacher is employed.

(f) The commission shall review the applications in accordance with rules promulgated by the commission in coordination with the department to determine if the applicant qualifies for a supplemental grant from the fund.

(g) After determining eligibility for a supplemental grant from the Science, Technology, Engineering, and Math Fund, the commission shall notify, in writing, the applicant of the decision of eligibility.

History. Acts 2007, No. 564, § 4.

6-17-2704. Disbursement of supplemental grant.

Upon the determination of eligibility for a supplemental grant from the Science, Technology, Engineering, and Math Fund, the Arkansas Economic Development Commission shall disburse the allotted funds to the teacher at the end of the fall and spring semesters for which the science, technology, engineering, or math course was taught.

History. Acts 2007, No. 564, § 5.

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